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REVIEW OF THE PRESIDENTIAL CERTIFICATION OF NICARAGUA'S CONNECTION TO TERRORISM

HEARING

BEFORE THE

SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

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REVIEW OF THE PRESIDENTIAL CERTIFICATION OF NICARAGUA'S CONNECTION TO TERRORISM

TUESDAY, SEPTEMBER 30, 1980

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS,
Washington, D.C.

The subcommittee met, at 2:15 p.m., in room 2255, Rayburn House Office Building, Hon. Gus Yatron (chairman of the subcommittee) presiding.

Mr. YATRON. Good afternoon. The subcommittee will now come to order.

Since last July the House of Representatives has concerned itself with the role the United States should play in reconstructing war-torn Nicaragua. After many months of debate, Congress finally agreed to provide Nicaragua with $75 million in assistance funds.

However, the release of these funds was made contingent upon Presidential certification that the ". . . Government of Nicaragua has not cooperated with or harbors any international terrorist organization, or is aiding, abetting, or supporting acts of violence or terrorism in other countries."

On September 15, the Speaker of the House and the Foreign Affairs Committee received such a Presidential determination, removing the last obstacle to the Nicaraguan assistance funds.

Despite the Presidential determination, the escalating violence in El Salvador and the recent assassination of former President Anastasio Somoza have prompted this subcommittee to conduct its own review of the available evidence and the determination process itself.

As witnesses today, we have the Honorable Robert Bauman, a Member of Congress from the State of Maryland, the Honorable Bill Young, a Member of Congress from the State of Florida, and the Honorable J. Brian Atwood, Assistant Secretary of State for Congressional Relations. Also appearing will be witnesses from the Central Intelligence and the Defense Intelligence Agencies.[1]

Much of the testimony to be presented is of a very sensitive nature, and as such, the subcommittee will be required to go into executive session at some point during the hearing.

I would like to welcome our witnesses.

We have a series of votes on the floor, and we will therefore recess.

Mr. GILMAN. Mr. Chairman?

[1] Edward J. Heaton, Analyst for Central America, Defense Intelligence Agency, and Alphonso Sapia-Bosch, Analyst, Central Intelligence Agency, gave testimony during the executive session.

Mr. YATRON. Mr. Gilman.

Mr. GILMAN. Before recessing, I want to commend you, first of all, for undertaking the leadership in bringing about this hearing at a very difficult time, when we have very crowded calendars, and the work of the Congress has been quite burdensome.

This is a very crucial issue, one that must be examined, and I know that the Members on my side of the aisle certainly welcome your cooperation in having arranged the hearing prior to our having adjourned so that we could have an indepth review of the present situation in Nicaragua.

Mr. LAGOMARSINO. Will the gentleman yield?

I would like to join the gentleman in his commendation of the chairman for holding this hearing. I think at this time, as busy as we are, and as busy as I know the chairman is personally, I think that it is very, very good that he has been able to find the time to do this. I think it is a very important subject, and one that we certainly should explore.

Mr. GUYER. I would like to associate myself with those remarks.

Mr. YATRON. Thank you, gentlemen. Thank you very much.

We will return as promptly as we can.

[Recess.]

Mr. YATRON. The subcommittee will resume its hearing.

At this time I would like to welcome our witnesses. Congressman Bauman, if you would like to summarize your testimony, the entire text will be entered into the record, and then we can proceed with questioning.

Welcome to you.

STATEMENT OF HON. ROBERT E. BAUMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. BAUMAN. Thank you, Mr. Chairman.

Thank you very much for holding this hearing today and allowing me to testify on the issue of the certification of aid to Nicaragua.

I would ask that my entire statement be placed in the record. I will simply make the points that I wish to in a brief manner.

Mr. YATRON. Without objection.

Mr. BAUMAN. I think we all know that H.R. 6081 contained an excellent amendment, at least from my viewpoint, which was offered by my colleague from Florida, Mr. Young, requiring that the President certify that Nicaragua has not cooperated with or harbors any international terrorist organization or is "aiding, abetting, or supporting acts of violence or terrorism in other countries." That he had to do before granting the $75 million in aid to the Government of Nicaragua.

In addition, the amendment said that if Nicaragua violates the terms of that condition at any date, then the $75 million loan would become immediately due and payable.

I think most people know that the certification has been made by the President, and he has in fact adopted the view that the certification was valid and that the facts do not support his preventing the aid from being given.

I happen to believe that this is an incredible disregard for the facts, and I think this hearing should address it today. That is why I am pleased you are holding it.

We have to look very closely at the situation in Nicaragua and the President's determination, in my view. A few years ago, Mr. Carter was more than willing to denounce Cuba for arming the Katanga rebels, for instance, in the Shaba Province of Zaire, and at that time correctly identified Fidel Castro as the area's gunrunner, and I agreed with him.

You will recall Mr. Castro called Mr. Carter a liar at the time, but Mr. Carter stuck to those facts. I am told by many people who have had closer access to this current situation in Nicaragua than I that this conclusion is based on perhaps a fifth or less of the evidence that we have today of Nicaragua's involvement in international terrorism.

In other words, the case for not certifying in this case is far stronger than in the case of Castro and the Katanga Province. Frankly, I am shocked that this certification should have been made.

Mr. Carter seems intent on papering over the acts of the Sandinista terrorists and the manner in which they came to power. In order to silence his critics—one of which I certainly have been—and stifle cries of "I told you so," Mr. Carter has decided, in my view, that he will dismiss all but the most blatant of Nicaragua's terrorist acts. He seems willing to accept the Sandinista's explanation of what the situation is there.

I believe some of the very people involved in the terrorist activities are members of the Sandinista government. I had hoped that the administration would have learned from our experiences elsewhere that government members cannot act as individuals when they are in fact the only government.

In the case of the Sandinistas, the terrorism and the government activities I think are closely bound up.

For instance, the Carter administration—if you want to compare its policy toward Nicaragua and surrounding countries—has condemned nearby Guatemala for human rights violations, claiming that killings plaguing that country are in some instances ordered by the Guatemalan Government.

Yet, when that Government argues that the violence comes from independent left- or right-wing extremists and is not Government policy, Mr. Carter's administration has dismissed that claim. But he is very ready to accept in the case of Nicaragua what the Government says.

I would have to ask why there is no consistency in this handling of the much-touted human rights policy. That is supposed to be a cardinal principle of the Carter administration.

I understand that our colleague, Congressman Young, will discuss in greater detail the activities of the Sandinistas since their takeover on July 19, 1979. But I think it might be helpful for the subcommittee to touch on a few points of their background, and their extensive ties to international terrorism. That, after all, is what this amendment was seeking to prevent.

As we know them today, the Sandinistas are made up of three separate radical Nicaraguan groups. They were united under the

common banner at the urging of Fidel Castro, who warned that they would be unable to defeat Somoza if they remained splintered.

I am told Castro imposed on them as one of his conditions that they become this united front in order to get any aid from outside.

The FSLN leadership has received training in guerrilla tactics and handling of weapons in Cuba. During their years of struggle against Somoza, they made no secret of their close kinship to Cuba, the PLO, and other international terrorists.

For instance, in the case of the PLO, the Sandinistas admit that they were trained by the PLO in the late 1960's, in addition to the Cuban training they have received. They acknowledge that they fought alongside the PLO in 1970, against Jordan and helped the PLO hijack planes in Europe and the Middle East. This was even before the fall of Somoza.

Time magazine reported that planeloads of PLO weapons were hidden in medicine crates and being sent to the Sandinistas before Somoza's fall. So I think it is well that we review this history of the past because I think it was a prelude to what is occurring now.

In this hemisphere, the Sandinistas have been close to the Montonero guerrillas of Argentina, and I think the ties there can be very well documented.

On July 19 of this year, when the Sandinistas celebrated the first anniversary of their victory, the guest list was a veritable who's who of the terrorist world as we know it today.

The Cubans virtually ran the show for the Nicaraguans. Fidel Castro was in the center of all of this. Other noted luminaries included Yasser Arafat, along with many leftists and terrorists.

Coupled with the numerous visits which the Sandinistas have made in the last year to such places as North Korea, the Soviet Union, Cuba, and the radical Middle East states, and with the return visits they have received from Vietnam and other Soviet bloc countries, their continued terrorist activities are not inconceivable.

In fact, in light of the training that the Sandinista leaders received for most of their lives, I would find it hard to believe that they had stopped their bloody activities.

The latest chapter of this sad saga is the recent assassination of former President Anastasio Somoza. From my readings there is strong evidence that the Sandinistas were an intimate part of that operation. For instance, the Nicaraguan leadership repeatedly said that Somoza would be brought to "revolutionary justice" and they said that he wouldn't escape unpunished.

Curiously, though, Nicaragua made no requests of Paraguay, where Somoza went into exile, for his extradition, nor did it break relations with that country in protest. The reasons soon became clear.

On August 25 the Paraguayan Government expelled two erstwhile Nicaraguan "diplomats" who were accused of espionage. It turns out that the two were guerrillas and kidnapping experts, trained in Cuba.

According to reports I have read, their mission was to spy on Somoza and gather intelligence on his movements. As it turns out, of course, Somoza was killed shortly after by unidentified assassins.

There is an interesting postscript to that story. One of the alleged killers was cornered and shot by the Paraguayan police. The man, Hugo Yrurzun, turns out to have fought with the Sandinistas in Nicaragua. The police are convinced that he came from Nicaragua and was armed by the Sandinistas.

It is no wonder, considering the weapons found in the car abandoned by the assassins after Somoza's murder. They included a Chinese rocket launcher and a Belgian FAL rifle and ammunition, as well as U.S. weapons.

On June 6, 1979, the Panama Canal Subcommittee displayed weapons captured by U.S. Customs agents which were being sent to Panama for transshipment to Nicaragua, and the display included these very same types of weapons. That perhaps was more than just a coincidence, that they should also show up at the scene of the death of Somoza.

I think it was very wise of Congressman Young to introduce this amendment. I believe that, quite frankly from the intelligence estimates, there was no grounds to justify President Carter's affirmation of that amendment's condition having been met.

Unfortunately, we are not able to discuss in public session the specifics of those facts that were presented, I assume, to both the President of the United States and to the appropriate committees, but I hope that in the off-the-record session we may be able to explore that.

It is a very serious situation when the President of the United States may very well be purposefully and willfully violating the law that the Congress has passed based on reports which do not support his rationale for making such a judgment.

I know the eagerness of this administration from the beginning to give aid to the Sandinistas. I think it was a mistaken policy. I think in this case the administration and the President have clearly acted beyond the bounds of legal restrictions placed on him by the Congress and willfully defied not only our wishes, but the best interests of the American people.

I would hope in your private session you are able to address this. Perhaps this is a question that needs to be answered by the experts. Nowhere have I seen any information publicly given that says the appropriate intelligence agencies have certified that this condition in the law has in fact been met.

It would be very interesting to find out whether or not those intelligence agencies share the mistaken view of the State Department, which from the beginning has turned its eyes away from the true situation in Nicaragua.

Thank you very much for permitting me to testify.

[Mr. Bauman's prepared statement follows:]

PREPARED STATEMENT OF HON. ROBERT E. BAUMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman, I thank you and the members of the Inter-American Affairs Subcommittee for providing me this opportunity to testify on the issue of the President's certification of aid to Nicaragua.

As the members of this panel know, my good friend and colleague Bill Young introduced an amendment to H.R. 6081, the Central American Assistance Act, which requires the President to certify that Nicaragua "has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries." This the President had to do before

granting $75 million in aid to the Sandinista Government of Nicaragua. In addition, the amendment provides that if Nicaragua violates the terms of this condition at some future date, then the $75 million loan would become immediately due and payable.

As we know, President Carter recently certified that Nicaragua does not harbor or support terrorists, and that it does not support acts of violence abroad. It was this incredible disregard for the facts which prompts this hearing, and which compels me to testify before you today.

We are all aware of the Carter administration's record on foreign policy, such as it is. It bears review at this time, though, to put into context the President's determination on Nicaragua.

It is interesting to note, for instance, that there was a time when President Carter was willing to point out international terrorist connections. For instance, Mr. Carter denounced Cuba for arming the Katanga rebels in the Shaba Province of Zaire a few years ago. He correctly identified Fidel Castro as the area's gunrunner, and I supported that finding fully. As you recall, Castro called Mr. Carter a "liar" at the time, but Mr. Carter stuck to the facts. I am told that the administration based this conclusion on maybe one fifth the evidence that we have today of Nicaragua's involvement in international terrorism. With five times the evidence to prove Nicaragua's involvement in today's terrorism, I am shocked that Mr. Carter cannot bring himself to make an equally correct finding about Sandinista activities.

Now, with elections fast approaching, evidence seems to have given way to political expediency. Mr. Carter seems intent on papering over the mistake he made in supporting the Sandinista terrorists in their quest for power. In order to silence his critics and stifle cries of "I told you so," Mr. Carter has apparently decided that he will dismiss all but the most blatant of Nicaragua's terrorist acts and connections as hearsay, and then accept the Sandinista explanation of the rest as being the work of individuals outside of government control. Since some of the very people involved in terrorist activities are members of the Sandinista government, however, that argument rings hollow. I had hoped that this administration would have learned from our Iranian experience that government members cannot act as individuals when they are, in fact, the only government.

Incidentally, in sharp contrast to this forgiving attitude towards the Sandinistas, the administration has condemned nearby Guatemala for human rights violations, claiming that the killings plaguing that country are ordered by the Guatemalan government. Yet when that government argues that the violence comes from independent left- and right-wing groups, and not as government policy, Mr. Carter dismisses this claim, the very one he is so ready to accept in the case of Nicaragua. Why, I ask, is there no consistency in the handling of the much-touted "human rights" policy supposedly guiding this administration?

Congressman Young will discuss in greater detail the activities of the Sandinista National Liberation Front since its takeover of Nicaragua on July 19, 1979. Before he does so, though, I think it would be helpful for the members of this subcommittee to know a little more about the background of this organization, one with extensive ties to international terrorism.

The Sandinistas as we know them today are made up of three separate radical Nicaraguan groups. They were united under a common banner at the urging of Fidel Castro himself, who warned that they would be unable to defeat Somoza if they remained splintered. One of the conditions, I am told, which Castro imposed on them was that they become a unified front before he would grant them any aid. The FSLN leadership received training in guerrilla tactics and weapons handling in Cuba. During their years of struggle against Somoza, they made no secret of their close kinship to Cuba, the PLO, and other international terrorists.

For instance, in the case of the PLO, the Sandinistas themselves admit that they were trained by the PLO in the late 1960s, in addition to the training they received in Cuba before then. They also acknowledge that they fought alongside the PLO in 1970 against Jordan, and helped the PLO hijack planes in Europe and the Middle East. Even before Somoza fell last year, Time Magazine reported that planeloads of PLO weapons hidden in medicine crates were being sent to Nicaragua. We already know that PLO terrorists and revolutionaries from other extremist countries and groups fought alongside the Sandinistas in Nicaragua.

In this hemisphere, the Sandinistas have been close to the Montonero guerrillas of Argentina. Their leader, Mario Firmenich, entered Nicaragua within days of the Sandinista takeover last year. He has been in and out of Nicaragua various times since then. In addition, Sandinista soldiers have been openly entering El Salvador to fight alongside leftists in that country, although Managua refers to these soldiers as overly enthusiastic young men who go to El Salvador on their own to idealistically fight for the Salvadorean revolution.

On July 19 of this year, when the Sandinistas celebrated the first anniversary of their victory, the guest list was a veritable who's who of the terrorist world. The Cubans virtually ran the show for the Nicaraguans, with Fidel Castro at center stage. Another noted luminary was Yasser Arafat, along with Firmenich and other leftists.

Coupled with the numerous visits which the Sandinistas have made in the last year to such places as North Korea, the Soviet Union, Cuba, and the radical Middle East states, and with the return visits they have received from Vietnam and other Soviet bloc countries, their continued terrorist activities are not inconceivable. In fact, in light of the training that the Sandinista leaders received for most of their lives, I would find it hard to believe that they had stopped their bloody activities.

The latest chapter of this sad saga is the recent assassination of former President Anastasio Somoza. The evidence is quite strong that the Sandinistas were an intimate part of that operation. For instance, the Nicaraguan leadership repeatedly said that Somoza would be brought to "revolutionary justice." They said again and again that Somoza would not escape unpunished. Curiously, though, Nicaragua made no requests of Paraguay, where Somoza went into exile, for his extradition, nor did it break relations with that country in protest. The reasons soon became clear.

On August 25, the Paraguayan government expelled two erstwhile Nicaraguan "diplomats" who were accused of espionage. It turns out that the two were guerrillas and kidnapping experts, trained in Cuba. According to reports I have read their mission was to spy on Somoza and gather intelligence on his movements. As it turns out, of course, Somoza was killed shortly after by unidentified assassins.

There is an interesting postscript to that story. One of the alleged killers was cornered and shot by the Paraguayan police. The man, Hugo Yrurzun, turns out to have fought with the Sandinistas in Nicaragua. The police are convinced that he came from Nicaragua and was armed by the Sandinistas. It's no wonder, considering the weapons found in the car abandoned by the assassins after Somoza's murder: they included a Chinese rocket launcher and a Belgian Fal rifle and ammunition, as well as U.S. weapons. On June 6, 1979, the Panama Canal subcommittee displayed weapons captured by U.S. customs agents which were being sent to Panama for transshipment to Nicaragua, and the display included these very same types of weapons. I have no doubt whatsoever that the Sandinistas provided the resources and weapons necessary to kill President Somoza.

It was indeed wise of Congressman Young to include in his amendment a provision allowing the recall of the $75 million loan if we, at a later date, found evidence of Nicaraguan complicity in terrorism. The assassination of President Somoza just days after Mr. Carter gave the Sandinistas the loan has shown the wisdom of that approach. We cannot, Mr. Chairman, allow the Sandinistas to continue to spread violence and death throughout Latin America. I implore this subcommittee to look at the facts objectively and see for itself that Mr. Carter's determination was designed to further his policies, not to follow congressional intent.

Thank you for this opportunity to express my views on this matter.

Mr. YATRON. Thank you very much for your statement. I have no questions at this time.

Mr. Gilman.

Mr. GILMAN. First of all, I want to commend the gentleman from Maryland for taking the time to come before our committee to express himself with regard to this issue. I know he has been long concerned with the problems we face in Nicaragua and has spent a great deal of time and effort in trying to relate those problems to the entire Congress.

Based upon your view of the President's decision, what action would you recommend for the President and the Congress to take, with regard to the Nicaraguan situation?

Mr. BAUMAN. I haven't researched, I would say to my colleague, the legal situation fully, but I was asked by a reporter at the time the certification was made whether there was any recourse left to the Congress. If the President of the United States is going to openly defy the law and intent of Congress, there is very little we can do that would bring to a quick judgment the correctness of his action.

Obviously, if we took a legal route it would take many months. Questions of whether the court had jurisdiction to act and so on would be raised and the whole issue of whether it was simply a political question would be raised, I am sure, by the Justice Department in the administration's defense.

So, I don't see any speedy means of testing the authenticity of what the President has done. I do think that if a full disclosure were made to the American people of the facts of the situation and the direct assistance and training, weapons shipments and so on that I believe Nicaragua is providing to El Salvador, Guatemala, and other areas, that that would probably expose completely the incorrectness of the President's decision.

But that, of course, is my estimation, without any private briefings on the intelligence matters since January or February, my reading of the public press and my discussions with those in exile and others in Central America with whom I have had contact.

Mr. GILMAN. Does the gentleman have information as to how the President arrived at his decision, who he consulted with, and what reports he may have had before him?

Mr. BAUMAN. I do not. That, I think, would be a fit subject for questioning. I know he didn't consult me.

Mr. GILMAN. I thank the gentleman.

Thank you, Mr. Chairman.

Mr. YATRON. Thank you.

Mr. Guyer.

Mr. GUYER. Mr. Chairman, I appreciate both the testimony and the opportunity of hearing my colleague. I am enormously interested in everything he has had to say. I find nothing inconsistent with what he has said previously in the way of prophetic statements that he has made that have not been repudiated.

I would reserve questions because he is not here on any kind of trial. In the interests of time, I would like to hear from Congressman Young before we are called back to the floor so we might have a more composite picture of the entire statement.

These are certainly serious statements and, if corroborated, it shows a serious flaw in our intelligence reporting or our administration thereof. For the best interests of our country, I think we should pursue this with all due haste, and certainly if it requires confidentiality, we will do that in secret session.

Mr. BAUMAN. They are serious charges. I do not make them lightly. I do not think in this instance the fault is on the part of our intelligence agencies.

I don't think I am violating any of the rules of the House to say that in the classified briefings I have had, some of which other members here have attended at the same time, the intelligence agencies have been far more forthcoming and frank in their estimates than the State Department, and many times have found themselves in the position of having to fight the State Department and its interpretation of what the intelligence agencies have found.

Mr. GUYER. My implication was not that. It was that if our intelligence gathering is as I hope it is, then my question is, is it reaching the right source. If it is, the top administration is not wisely using what they have access to.

Mr. YATRON. Mr. Lagomarsino.

Mr. LAGOMARSINO. Mr. Bauman, one of the things I have heard said—the Sandinistas have said this—if terrorism is occurring and if it does involve Nicaraguans, it is the act of individuals and not the government.

How do you respond to this view?

Mr. BAUMAN. It is pretty hard to separate the members of the directorate of the junta and their statements from the fact that they are in leadership capacities, and a number of them—Tomas Borge, in particular, and the Ortega brothers—have stated their sympathy with activities which amount to terrorism.

Several of them on a number of occasions said they would not rest until Somoza was dead, for instance. Those statements are documented, and have appeared in La Barricada, and over Radio Sandino and so on over the last year.

They have not made any secret of their views. They have denied they have officially been doing these things, but there has been very little attention paid in the United States to what they say in their own country or in other Latin American countries as they travel around the world.

If you take them on their own words alone, it would almost be enough, I think, to make a case. But I think in the intelligence community, there is concrete evidence and facts to prove that they are aiding, abetting, and training terrorists for the overthrow of other governments in Central America.

Mr. LAGOMARSINO. Well, I guess it would be kind of like saying that the students are responsible for holding the hostages in Iran and not the government.

Mr. BAUMAN. Not a bad comparison.

Mr. LAGOMARSINO. As I understand it, Radio Sandino is a government radio station.

Mr. BAUMAN. Yes.

Mr. LAGOMARSINO. Isn't it Radio Sandino that right after—some people say before—the assassination of Somoza in Paraguay called for a day of celebration?

Mr. BAUMAN. I have never established exactly the time sequence in which those announcements over Radio Sandino in Managua occurred, but there is some allegation that they may have occurred coincidentally.

Mr. LAGOMARSINO. But that was an official government action, if they control that radio station. So at least there is some corroboration.

Mr. BAUMAN. That would be an understandable reaction under the circumstances of the revolution, even to me. The thing that I do not understand is why the administration, with evidence before it that there are supply lines going through Nicaragua, that there are arms shipments occurring, that these arms are being shipped into El Salvador and other areas of Central America, when specific geographic points are being used for landing areas and transshipment, apparently by Cuba and Panama, and when training is occurring in given areas in Nicaragua, and in other countries, why isn't this laid out on the record and how can the President have the ability to wipe all of this evidence aside and say it doesn't exist?

Mr. LAGOMARSINO. Are you familiar with the interview with Julian Ignacio Otero Espinosa, ex-chief of logistics and finance of the Popular Liberation Forces in El Salvador?

Mr. BAUMAN. I think I would have remembered that name. I do not. If you want to bounce it over me, I would be glad to knock the ball back in your court.

Mr. LAGOMARSINO. He was arrested and gave a very long interview sometime ago. I don't remember the exact date, but it was certainly long before the certification and after the amendment was passed.

Among other things, he is reported as saying—in the interview:

I must mention also that among all the collaboration that the subversion receives here in the country is the active collaboration of the Government of Nicaragua. Not long ago, landing exercises were carried out in the Corinto area, and they have training camps in Nicaragua. Besides all commanders from the rank of platoon upwards have graduated from the Soviet Union and Cuba where they take advantage of scholarships.

Mr. BAUMAN. It is not unlike the charges made in public several months ago by Jose Francisco Cardenal, who left Nicaragua after being suggested for high office in the country.

In a press conference he held, he made similar charges of terrorist activity mounted from Nicaraguan soil.

Mr. LAGOMARSINO. I think there is plenty of evidence, hints or inferences on the public record—not just on the secret record, but the public record, in the public press—that should have caused a great deal more attention on the part of the administration than I think was given to this matter.

Mr. BAUMAN. Well, it is my impression that the predetermined policy of the Carter administration regarding Nicaragua has been used as a mold to fit any facts available. They have simply justified what they are doing as they have gone along. In this case, I think they have violated the law in doing it.

Mr. YATRON. Thank you for appearing today, Congressman Bauman.

Now we will call on our colleague, Congressman Young from Florida. If you would like to summarize your statement, the entire text will be made part of the record.

STATEMENT OF HON. C. W. BILL YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. YOUNG. Thank you very much, Mr. Chairman.

I appreciate the fact that you and the other members have taken the time to have this hearing. I think we are considering something that is far more important than $75 million worth of foreign aid to Nicaragua.

I was one of those who opposed this additional aid for Nicaragua in the House. We lost. But we thought we had protected the integrity of the United States by requiring that the President must certify that Nicaragua is not aiding or abetting terrorism or training, or having anything to do with supporting violence in El Salvador or other neighboring countries.

The certification made by the President was, in my opinion, strictly a political certification. I will speak to the specific reasons why I make that claim today.

I was one of the four members who requested the extraordinary executive session of the House to discuss this matter back in February of this year. In that executive session, as a member of the Intelligence Committee, I was permitted to present certain classified material to the House relative to this very question.

It was based on that testimony that the House, with a vote of 392 to 3, adopted my amendment to require the President to certify that the Government of Nicaragua ". . . has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries."

The President has made that certification.

The problem, Mr. Chairman, that I find with this whole episode is that I have to assume that the President of the United States has had available to him the same intelligence reports that have been available to me as a member of the Intelligence Committee.

Or, I have to assume that he hasn't had that made available to him. If he hasn't seen this information, then I think there is a serious problem within the administration. If he has had that information made available to him and based on that information finds that he was able to certify that the Nicaraguan Government or the Sandinistas or however you would identify them today were not cooperating with or harboring any international terrorists, et cetera, et cetera, then I think we have an altogether different type of problem.

I think the security of the United States is in jeopardy when its intelligence community is either ignored or completely misinterpreted. I suggest to you today that for any person to make the certification that the President of the United States made in this regard, assuming that he had available information similar to what was available to me as a Member of Congress—I think we have a serious problem. I think it is important that we explore that matter.

One of your committee members inquired of Congressman Bauman, what should the Government be doing. I think you are doing exactly what should be done. You are inquiring into this matter, and I compliment you for that.

Mr. Chairman, since this is an open session, I am not going to quote from any of the classified intelligence reports. I will use instead some public information which is thoroughly consistent with classified information and that is not contradicted by the reports of our intelligence agencies.

The Sandinistas have made it clear that they have no intentions of fulfilling any requirements that the Congress of the United States has placed on the $75 million loan.

Interior Minister Tomas Borge said on September 5:

> If they could buy us with $75 million or with $1 billion, we would stop being revolutionaries. We revolutionaries would rather starve, if necessary, before falling on our knees in the face of Yankee imperialism. Let them refuse once and for all to give us the $75 million. They think we are going to beg. How little do they know the Sandinistas.

This was broadcast over Managua Radio Sandino on September 6, 1980.

Mr. Chairman, this $75 million is not the only money that has gone from the United States to the Sandinistas in Nicaragua. Immediately after the Sandinista takeover in July 1979, $24.5 million

was reprogramed to provide emergency and disaster relief for Nicaragua. In addition, $14.1 million in Public Law 480 food was also sent to Nicaragua and $33.2 million which was already in the AID pipeline for Nicaragua, but that had been stopped, was all of a sudden opened up and this $33.2 million in aid went to the new Sandinista regime in Nicaragua.

So, in addition to the $75 million, we are talking about another $71.8 million that has already been delivered.

We also have in this year's appropriations bill, if we ever get to it, some $59 million more for Nicaragua.

Mr. Chairman——

Mr. LAGOMARSINO. Will the gentleman yield at that point? Subject to exactly the same conditions?

Mr. YOUNG. We hope that will be the case. However, since that bill hasn't been brought before the House, we are not sure what condition it is going to be in. We may never see that bill. There is a big question whether that bill is ever going to be considered by the House or not.

Despite the fact that the Sandinistas have made it clear they will not accept the $75 million if that means they must stop supporting terrorism in Latin America, Mr. Arturo Cruz, as a member of the Junta, has talked about Congress disapproving the loan.

He called specific attention to the clause that said that they couldn't get the money if it is proved they are involved in acts of terrorism or to be sheltering groups which carry out such actions.

Mr. Cruz said, "I wish to make it very clear this is a duty imposed by the U.S. Legislature on the President. In other words, it is their political problem."

What he is saying is that they don't intend to abide by any restrictions this Congress placed on the $75 million.

The most significant support to terrorism given by the Sandinistas is the aid and training that they supply to terrorist groups operating in El Salvador. On June 23, 1980, the press and radio in El Salvador published the statement of a captured terrorist, Julian Ignacio Otero Espinosa.

Mr. Espinosa testified that he himself was involved in the shipment of arms from Nicaragua to the terrorists in El Salvador. He said:

> On several opportunities we went to the border with Honduras to receive arms coming from Nicaragua. On other occasions, we received arms coming directly from the Soviet Union and the Socialist Republic of Cuba.

He referred to ". . . the active collaboration of the Government of Nicaragua. Not long ago landing exercises were carried out in the Corinto area and they have training camps in Nicaragua," the very information Mr. Lagomarsino referred to.

On June 25, 1980, the official Managua Radio Sandino reported the unification of the terrorist groups in El Salvador, which was a major objective of the Cubans.

Fidel Castro was pictured by NBC just a few weeks ago in attempting to bring these forces together, to unify the terrorist groups in El Salvador. Radio Sandino stated, "A single army will emerge from their force, their heroism, their revolutionary awareness, their responsibility towards the people of the world and their

unity." It is quite evident that El Salvador is in line to become the next Nicaragua.

The day before the announcement of the unity of the terrorist groups in El Salvador over the official Nicaraguan radio, the terrorists sent letters to a number of prominent politicians and journalists in El Salvador threatening their lives. Those threatened include representatives of the French News Agency, Reuters, Associated Press, and United Press International.

Mr. Chairman, I have a number of similar examples included in my written statement.

At your suggestion, I will simply summarize and allow these additional examples to be placed in the record with the full statement.

I want to go back to the subject of the Intelligence Committee and how this whole business of certification was handled.

When it was obvious that the decision on certification was about to be made, the Evaluation Subcommittee of the Intelligence Committee asked for certain information. The information was not requested at my direction. I did not instigate it. It was an ongoing part of the regular duties of the Intelligence Committee in monitoring the quality of intelligence performance in this part of the world.

I am concerned about the President making the certification that the Government of Nicaragua is not involved in the exporting of terrorism or supporting the overthrow of other duly constituted governments in Central America, since I have had access to the intelligence information of the Central Intelligence and Defense Intelligence Agencies concerning this matter.

While I cannot quote this information in this open session, I can tell you that the intelligence reports confirm in overwhelming detail that the Sandinista clique that rules Nicaragua is engaged in the export of violence and terrorism.

I feel you should know about the difficulties that we have recently had in obtaining the classified information on this subject from the executive branch.

As I previously noted, the staff of the Subcommittee on Evaluation has had an ongoing study of intelligence on Nicaragua which began in late 1978. As part of that responsibility, the staff often makes visits to the CIA to talk with analysts and periodically requests studies produced by the CIA and other intelligence agencies in Washington, and in general has paid attention to what is going on.

On 12 August of this year, the staff made a routine request to talk with an analyst at CIA's National Foreign Assessment Center about Nicaragua. The staff was told that they would not be able to talk with the analyst at CIA since there was "a Presidential embargo" on talking about Nicaragua.

This is very unusual. Normally, the Intelligence Committee and the staff have access to some of the most sensitive secrets of the United States. But here all of a sudden there is a Presidential embargo on talking to anybody at the Intelligence Committee about Nicaragua.

I wasn't aware of this at the time since this took place during the recess, but the staff was quite concerned. The chairman of the

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committee, Congressman Boland, sent a letter to the Director of Central Intelligence on this matter, on August 22. To date, the CIA has not responded to that letter.

Let me say I don't think it is the fault of the CIA. I think again they have been embargoed and not permitted to respond to that letter.

I would further note that the staff was notified via telephone on September 10 that the embargo had been lifted and that discussions could be held with CIA analysts. Two days later the President made his certification that Nicaragua is not exporting terrorism and/or acting as a conduit for arms or sanctuary for revolutionaries in other Central American countries.

On September 15, the staff of the House Intelligence committee was briefed on Nicaragua. The evidence of Sandinista export of violence and terrorism was presented. As a result of that briefing, the staff requested certain materials from the CIA. One of those papers was a study produced for the National Security Council.

Although the staff was allowed to read the study, as I was, we were not allowed to keep the paper. We were later given a different paper which, for the most part, is the same as the study which has been supplied to the National Security Council. One of the other documents is still denied to us.

Mr. Chairman, in my opinion this is not an intelligence issue on the embargo. I don't think the information available is so sensitive that the Intelligence Committee couldn't have had it. I think it is a policy issue.

While the intelligence community is reporting one thing about what is occurring in Nicaragua, the President of the United States chooses to disregard that evidence and certifies otherwise.

I say again it is clear that either the President hasn't read the same intelligence reports that I have or he has received them through a filter. In either event, it is a serious matter. I believe this committee should be exploring this matter in depth with those agencies.

Mr. Chairman, I am satisfied with the sensitive, top secret material that I have seen. I am satisfied that the embargo on the release of this information to the Intelligence Committee or to your committee is not due to the unusual protection of sources and methods.

I think that it is strictly political. I think that is a very serious matter. I realize that is a very serious charge, because I see the intelligence communities of this Nation being manipulated for political purposes. I see raw intelligence material going unheeded.

Mr. Chairman, to me, as one who has been accused of being a flag waver many times, as one who loves this country, and who is determined to do what I as an individual member can do to preserve the security of this Nation, I find that inexcusable.

Thank you very much.

[The information follows:]

[Mr. Young's prepared statement follows:]

PREPARED STATEMENT OF C. W. BILL YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, on September 12, the President of the United States signed a certification pursuant to Section 536(G) of the Foreign Assistance Act in which he

swore that the Government of Nicaragua "has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries." The intelligence information available to the President proves the opposite. I have had the opportunity to examine information made available to the President by our intelligence agencies and no reasonable man, after examining that evidence, could reach the same conclusion contained in the President's certification.

As this is an open session, I will not quote from any of the classified intelligence reports. I will use instead the public record which is thoroughly consistent with the classified information and is not contradicted in any way by the reports of our intelligence agencies.

The Sandinistas have made it clear that they have no intentions of fulfilling any requirements that the Congress of the United States has placed on the $75 million loan. Interior Minister Tomas Borge said on September 5, "If they could buy us with $75 million or with one billion dollars, we would stop being revolutionaries. We revolutionaries would rather starve if necessary before falling on our knees in the face of Yankee imperialism. Let them refuse once and for all to give us the $75 million. They think we are going to beg. How little do they know the Sandinistas. "(Broadcast over Managua Radio Sandino, on September 6, 1980.)

In an interview published September 14, 1980, in the Newspaper *LaPrensa*, the Junta member Arturo Cruz pointed out that, "at the same time Congress was approving the loan, there were precise recommendations to President Carter to affect the disbursement and the use of the loan, based on direct and precise observations of Nicaragua." He called specific attention to the clause that prevented the Sandinistas from getting money in the event that Nicaragua is "proved to be involved in acts of terrorism or to be sheltering groups which carry out such actions." Cruz continued, "I wish to make it very clear, that this is a duty imposed by the U.S. legislature on the President. In other words, it is 'their' political problem." The "revolutionary government in no way accepts, under any circumstances, any agreement—whether for a loan or for financial cooperation—with the United States or with 'any' country in the world not even with the Holy See, That contains any clause that is in injurious to the national dignity or that imposes financial conditions of a unilateral nature."

Despite the fact that the Sandinistas have made it clear that they will not accept the $75 million if that means that they must stop supporting terrorism in Latin America, Cruz claimed that as soon as Congress approved the loan, $15 million was made available and that when they sign the agreement they will receive another $40 million and the rest will come a short time later. In other words, the first 15 million was released to them long before the President certified that they were not involved in the export of terrorism.

The most significant support to terrorism given by the Sandinistas is the aid and training that they supply to terrorist groups in El Salvador. On June 23, 1980, the press and radio in El Salvador published the statement of a captured terrorist Julian Ignacio Otero Espinosa. Otero testified that he, himself was involved in the shipment of arms from Nicaragua to the terrorists in El Salvador. He said, "On several opportunities we went to the border with Honduras to receive arms coming from Nicaragua. On other occasions, we received arms coming directly from the Soviet Union and the Socialist Republic of Cuba." He referred to "the active collaboration of the government of Nicaragua. Not long ago landing exercises were carried out in the Corinto area and they have training camps in Nicaragua.

On June 25, 1980, the official Managua radio Sandino, reported the unification of the terrorist groups in El Salvador. They stated, "A single army will emerge from their force, their heroism, their revolutionary awareness, their responsibility toward the peoples of the world and their unity." The day before the announcement of the unity of the terrorist groups in El Salvador over the official Nicaraguan radio, the terrorists sent letters to a number of prominent politicians and journalists in El Salvador threatening their lives. Those threatened include representatives of the French News Agency, Reuters, Associated Press and United Press International.

It is interesting to note that the Cuban Ambassador to Nicaragua Julian Lopez, is a member of the Americas Department of the Central Committee of the Communist Party of Cuba. The Americas Department is responsible for providing support to terrorists and insurrectionary groups throughout the hemisphere.

It is also of some significance that the press in Kuwait reported on August 23 that a delegation from the Palestine Liberation Organization had gone to Nicaragua to supervise military training. According to the newspaper, Ar-Ray Al-Amm the instructors were sent in accordance with an agreement between Yasser Arafat and the leaders of the Sandinista Government in Nicaragua. Actually there has been a long standing relationship between the PLO terrorists and the Sandinista terrorists. On

August 7, 1979, the Kuwait newspaper Al-Watan reported an interview with Jorge Mandi, the Sandinista representative in Europe. Mandi said, "There is a long standing blood unity between us and the Palestinian revolution. We have long had close relations with the Palestinians. Many of the units belonging to the Sandinista movement were at Palestinian revolution bases in Jordan . . . as an example of our cooperation with the Palestinian Revolution, a number of our comrades took part in the operation to divert four planes which the Popular Front for the Liberation of Palestine seized and landed at a desert airfield in Jordan. One of our comrades was also wounded in another hijack operation in which Layla Khalid was involved. She was in command of the operation and our comrades helped her carry it out."

This close association between the Sandinista terrorists and the PLO perhaps explains why, when the American Jewish Committee investigated the situation of Jews in Latin America in May, they found that the entire Jewish Community of Nicaragua, some 70 families, about 350 people, had vanished from that country. This was reported in the Jewish Press, New York, May 23, 1980.

The role of the Sandinista government of Nicaragua, and the terrorists that they support from other parts of Latin America, in the murder of former President Somoza is obvious to everyone. Only the Sandinistas benefited from the murder, and the Argentinian terrorist killed in a shoot out with police shortly after the murder had close ties with the Sandinista government. He was a member of the Trotskyite terrorist organization, ERP (Revolutionary Army of the People) which has long collaborated with the Nicaraguan Sandinistas.

You may recall that my interest in this subject is not a recent one. I was instrumental in calling for the closed session of Congress held 25 February 1980 in order that classified information could be presented to the full Congress in considering aid for Nicaragua. Even prior to that time, the Subcommittee on Evaluation of the House Permanent Select Committee on Intelligence, of which I am a Member, had been engaged, as part of their regular duties, in monitoring the quality of intelligence performance in this part of the world. So this has been a continuing and ongoing effort.

I am very concerned about the President making the certification that the government of Nicaragua is not involved in the exporting of terrorism or in supporting the overthrow of other duly constituted governments in Central America, since I have access to the intelligence information of the Central Intelligence and Defense Intelligence Agencies concerning this matter. While I cannot quote classified information in this open session, I can tell you that the intelligence reports confirm in overwhelming detail that the Sandinista clique that rules Nicaragua is engaged in the export of violence and terrorism.

I feel that you should also know about the difficulties that we have recently had in obtaining the classified information on this subject from the Executive Branch.

As I previously noted, the staff of the Subcommittee on Evaluation has had an ongoing study of intelligence on Nicaragua which began in late 1978. As part of that responsibility the staff often makes visits to the CIA to talk with analysts and periodically requests studies produced by the CIA and other intelligence agencies in Washington, and in general has paid attention to what is going on.

On 12 August of this year, the staff made a routine request to talk with an analyst at CIA's National Foreign Assessment Center about Nicaragua. The staff was told that they would not be able to talk with the analyst at CIA since there was "a Presidential Embargo" on talking about Nicaragua. I was unaware of this at the time since this took place during the recess, but the staff was quite concerned. The Chairman of the Committee, Mr. Boland, sent a letter to the Director of Central Intelligence on this matter, on August 22. To date the CIA has not responded to that letter.

I would further note that the staff was notified via telephone on September 10 that the embargo had been lifted and that discussions could be held with CIA analysts. Two days later the President made his certification that Nicaragua is not exporting terrorism and/or acting as a conduit for arms or sanctuary for revolutionaries in other Central American countries.

On September 15, the staff of the House Intelligence Committee was briefed on Nicaragua. The evidence of Sandinista export of violence and terrorism was presented. As a result of that briefing the staff requested certain materials from the CIA. One of those papers was a study produced for the National Security Council. Although the staff was allowed to read the study, as I was, we were not allowed to keep the paper. We were later given a study which, for the most part, is the same as the paper which has been supplied to the National Security Council. One of the other documents is still denied to us.

At the same time the staff was talking with analysts in the intelligence community and also reviewing production by the Defense Intelligence Agency and the

Department of State to ascertain if there was any kind of a dispute in regard to the facts, or if the intelligence was so ambiguous that differing interpretations could be placed on it.

The staff of the Subcommittee on Evaluation found that there is essentially no disagreement within the intelligence community on the evidence. There may be slight nuances here or there, but in general the community is in agreement.

While there is no intelligence issue, there is a policy issue. While the intelligence community is reporting one thing about what is occurring in Nicaragua, our Chief Executive Officer, the President of the United States, chooses to disregard that evidence and certify otherwise. It is clear that either the President hasn't read the same intelligence reports that I have, or he had received them through a filter. In either event, it is a serious matter. I believe that you should explore this matter in depth with the agencies.

As I mentioned there are documents which the Intelligence Committee staff has requested which they have not received. They have been given various reasons and excuses for why they cannot have them. My own view is that they touch on political sensitivities rather than sources and methods. Let me say that in the deliberations over the Intelligence Oversight Act of 1980, H.R. 7668, I was a firm proponent, along with my colleagues on the Committee, that the CIA deserved protection for intelligence sources and methods. Obviously our nation's intelligence efforts need this kind of protection. However, they must not be manipulated by anyone to use the sources and methods caveat, to withhold information which is essentially politically sensitive rather than source sensitive. Let me reiterate that an embargo was placed on discussing this matter with the staff of a Committee of the Congress which is empowered to oversee the intelligence community, assess its performance and evaluate its effectiveness. The embargo was removed only after the President made a political decision about the information. And at this time, some data is still being denied to us.

It is very disturbing that the Central Intelligence Agency was directed to not provide an answer to the Chairman of the House Permanent Select Committee on Intelligence to the questions that he asked in his letter of August 22.

What we have is a case of the intelligence community being manipulated by the Executive Branch to protect a political sensitivity. What dismays me is the political misuse of the intelligence community, which rightfully has a reputation for objectivity. The intelligence community must be free of political bias so that our decision makers can use their reports to reach decisions based on the facts of the matter, and not on desired political outcomes.

I look forward to hearing the testimony of the witnesses from the intelligence community. They have a hard problem in light of the President's certification. But, I am sure that they will be candid with this Committee.

Mr. YATRON. Thank you for your statement.

Regarding the Presidential embargo on talking about Nicaragua, was information denied to any Members of Congress?

Mr. YOUNG. Information was denied not only to Members, but to the chairman of the Permanent Select Committee on Intelligence.

Mr. YATRON. You state that the intelligence reports confirm in overwhelming detail that the Sandinista clique that rules Nicaragua is engaged in the export of violence and terrorism. Are you aware of any reports that present an opposite point of view?

Mr. YOUNG. Mr. Chairman, I am not aware of any reports that present an opposite point of view. I am aware of opinions of representatives from the Department of State that were presented to a number of us, including members of your subcommittee, that disagreed with the intelligence and assessments. But those who presented the intelligence and assessments have refused to back down.

Mr. YATRON. Congressman Young, could you outline for us the role of the Nicaraguan Government in the assassination of former President Samoza?

Mr. YOUNG. No, sir, I cannot.

Mr. YATRON. Thank you. I have no further questions.

Mr. Gilman.

Mr. GILMAN. Thank you.

I want to commend the gentleman from Florida for taking the time to appear before the committee to express his views and to try to educate our committee, as well as the entire Congress, with regard to this issue from his perspective.

Do you have any knowledge of how the President arrived at his decision? Do you know what reports he might have had before him, or who he consulted with?

Mr. YOUNG. Mr. Gilman, there is an established routing for intelligence information from the agents in the field, or whatever the source might be, to the President. I do know some of the names involved in that chain of events. I am not sure at this point that it would be appropriate for me to mention those names. I will be glad to do so when you close the hearing.

Mr. GILMAN. Are you aware of what reports may have been before the President at the time he made this decision?

Mr. YOUNG. Mr. Gilman, I am not aware of the ones that might have been before the President. I am aware of reports which were available to him. The agencies I thought did an outstanding job in presenting the briefing papers.

Now, whether the information was filtered before it got to the President, I really don't know. If it was, then I think that is a serious matter.

Mr. GILMAN. You commented on the National Security Council having prepared a paper. Have you seen this paper at all as part of your review of the documents?

Mr. YOUNG. Yes, sir. It was prepared for the National Security Council. I have seen that. The person who delivered the paper waited outside the room and took possession of it immediately. Then the committee was supplied with another paper that was very much the same as the one we had seen originally. Obviously, the President had that available to him.

Mr. GILMAN. Based upon your having reviewed the papers in question and the information that you were able to review that was supplied by the intelligence agencies, do you concur with the President's decision?

Mr. YOUNG. Not at all. To the contrary, I frankly don't see how he could have honestly made that certification if he has seen the same information I have seen.

I say again, if he is seeing information different than what the Intelligence Committee is seeing, then there is something seriously wrong with our system. So, I have to assume he saw the same thing I saw.

Mr. GILMAN. Mr. Young, assuming the President reached an honest decision in his mind that as of September 12 the Government of Nicaragua was not engaged in activities covered by your amendments, in your opinion, is there evidence to conclude that after that date they participated in such activities, after September 12?

Mr. YOUNG. I am not sure that I can respond accurately to that question without reviewing information, Mr. Gilman. I would rather be accurate.

Mr. GILMAN. Mr. Young, based upon your knowledge and judgment of the certification, what action would you recommend to the President and to the Congress?

Mr. YOUNG. Well, I have already said I think you are taking the appropriate action. This subcommittee is inquiring into the matter of the certification.

The Congress evidently felt that the matter was serious enough to have adopted that amendment to the bill on a vote of 392 to 3 after some of the classified information was presented to the Congress in a closed session.

I think Congress is the appropriate body and you are one of the appropriate subcommittees to investigate this matter. I think you are doing the right thing. I think this is the way to go.

Mr. GILMAN. I guess what I am seeking from you, is there some procedure that the President should follow, assuming some additional evidence is presented to him, to show that the certification was not justifiable?

Mr. YOUNG. Mr. Gilman, I have a little problem with that because I really believe that the President as Commander in Chief and the one person responsible for the security of our Nation, has to be given considerable flexibility and quite a bit of discretion in decisions that he makes relative to the national security. I would hate to see a President put in the position of not being able to exercise that flexibility when it was necessary.

But, in my opinion, in this particular instance he has gone far beyond the exercise of prudent flexibility.

Mr. GILMAN. I have no further questions, Mr. Chairman.

Mr. YATRON. Thank you, Mr. Gilman.

Mr. Guyer.

Mr. GUYER. Mr. Chairman, I again am intensely interested in the testimony. Mr. Young has again been consistent with his performance and his floor management and speeches on the floor, together with his great desire to, I think, safeguard America, and I am curious.

Do you feel the Members of Congress should have the same right as the President to information that affects the security of this country?

Mr. YOUNG. Mr. Guyer, of course the Congress, being a coequal branch of the Government, obviously has the right to almost any information there is available about the Government. And I think Congress did the wise thing when we created the Select Committee on Intelligence of the House and of the Senate so that a certain number of Members in both bodies would have access to this information.

Members who are not part of those committees also have access to that information if they will go by the established rules and go to the Intelligence Committees and get approval. They can sit down and read these documents. I think that is appropriate.

On the other hand, to make it just generally available, willy-nilly, adds to the problem of leaks. It seems like every other day we can read some leak of new secret information, which I think is also bad. We all know that the more people that have general access to secret information, the quicker it becomes known to anybody in the world that wants it known.

I am really disturbed by the fact that the Soviets don't have any need to upgrade their intelligence gathering because of the things that we do for them. We either provide them, through Government

documents, information that they would have to spend millions of dollars if they had to get it through some intelligence source but we give it to them free. We have leaks that come out of the highest echelons of Government relative to not only intelligence and security-type secrets but military secrets, hardware secrets.

I think that is tragic, and I think there is no excuse for those things happening. I fault any administration that doesn't do what it can do to protect the military secrets and the intelligence secrets of this Nation.

Mr. GUYER. I notice both your testimony and that of Mr. Bauman contains some rather exhaustive encyclopedic information beyond what we normally pick up in the media.

Do you have other sources for your testimony? I don't ask you to disclose them.

Mr. YOUNG. Yes. I am glad you asked. It is very interesting what some of these sources are. They are Radio Sandino. Those of us that want are provided with transcripts of intercepted public radio stations in Nicaragua, throughout Central America, including Cuba.

In my recent statement, you will find comments from European sources. This is nothing secret. This comes out over the public airways, and any member can have this information if they desire. It is very revealing.

Every Member should subscribe to this Foreign Broadcast Information Service. It is interesting to read some of the things that the Sandinistas themselves are saying about us, about this aid program and about the restrictions that we have attempted to impose on the aid program.

Mr. GUYER. It is not relevant to this, but I was told rather confidentially, rather accurately, that the Government of Germany got almost all the information for their rocket bomb from a Government document which sold for a quarter, and was available to anybody over the counter.

Mr. YOUNG. You discussed this with me before, and you certainly have a wealth of information and background on matters of that type, and you are right. If you go to the Government Printing Office, you would be amazed what you can find in documents that we publish that are available to the Soviets, and they line up to get them.

Mr. GUYER. There is nothing you said here today that the President could not have already known without his intelligence community?

Mr. YOUNG. Yes, that is the truth. Some of the things that I would have said to you in a closed session, I would hope would not be available to anyone through a public session.

Mr. GUYER. I am not going to ask here, but you likely do have some information on the countries such as El Salvador, Costa Rica, and others. Are you familiar with some of those operations?

Mr. YOUNG. Yes, I am.

Mr. GUYER. Thank you.

Mr. YOUNG. Mr. Guyer, let me respond. I really take my hat off to those people that are responsible for our intelligence activities. They really do a fine job. The politics over the last few years have created some problems for them, and the Congress, I hope, is about

to address those problems. Protection of identities of agents, for example, is just one of a number of things that we ought to be doing.

But even despite these handicaps, they really do a fine job and it is distressing to me to see their work ignored when a decision like this is made.

I say again, the $75 million is not that big of an issue. You know, we lose $75 million through the cracks here every afternoon. It is the principle that the President would make this certification when I know that information available to him had to convince him that his certification was not honest.

Mr. GUYER. I think I agree, and as a matter of relativity, we receive some secret briefings, and I have reason to believe that there were three separate dates which were given as the first time we knew there were troops in Afghanistan, and it took a matter of 3½ to 4 months before the executive branch made the announcement.

Mr. YOUNG. The intelligence reporting on that particular situation was excellent.

Mr. GUYER. That is all.

Mr. YATRON. Mr. Lagomarsino.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

I would agree with you that the money is not the most important thing, but on the other hand, to paraphrase the late Senator Everett McKinley Dirksen, you know, $75 million here and $75 million there does add up to "real money."

Mr. YOUNG. It is important to me, but not quite as important as the principle involved.

Mr. LAGOMARSINO. And I agree with that. You are the author of the amendment to this bill?

Mr. YOUNG. Yes, sir.

Mr. LAGOMARSINO. We haven't spoken about other amendments. There are a lot of them, some 20 as I recall, all of which were to be taken into consideration.

Mr. YOUNG. Yes, sir.

Mr. LAGOMARSINO. It is not timely to go into all that now, and that is not the purpose of this hearing, but I do think that the certification should have been made or not made in light of the entire situation. There are a lot of questions about some of the other things, but yours is the only amendment that requires affirmative action by the President, as I recall.

Mr. YOUNG. Yes, and I am glad you mentioned affirmative action. You know, for those of us who oppose this action, the way the law reads, it is not up to us to prove that they are doing this. The way the law reads it is up to the President to certify that they are not doing this, so the burden is on him.

Mr. LAGOMARSINO. The wording of your amendment——

Mr. YATRON. Mr. Lagomarsino, we have an additional member here and he has to go back to a meeting. At this time the Chair would like to offer a motion to go into executive session at the appropriate time.

As the motion requires a rollcall vote, Mr. Friedman will now read the roll.

Mr. FRIEDMAN. Mr. Yatron.

Mr. YATRON. Aye.
Mr. FRIEDMAN. Mr. Fascell.
[No response.]
Mr. FRIEDMAN. Mr. Rosenthal.
[No response.]
Mr. FRIEDMAN. Mrs. Collins.
[No response.]
Mr. FRIEDMAN. Mr. Studds.
[No response.]
Mr. FRIEDMAN. Mr. Ireland.
Mr. IRELAND. Aye.
Mr. FRIEDMAN. Mr. Gilman.
Mr. GILMAN. Aye.
Mr. FRIEDMAN. Mr. Guyer.
Mr. GUYER. Aye.
Mr. FRIEDMAN. Mr. Lagomarsino.
Mr. LAGOMARSINO. Aye.
Mr. YATRON. We have five members voting "aye." The motion is passed.

Thank you, Mr. Ireland.

Mr. Lagomarsino.

Mr. LAGOMARSINO. The operative language of your amendment says, "Has not cooperated with." It does not say is not cooperating with. It says "has not," which, I guess, a simple reading of that would mean had it ever happened up until the time of certification.

The language goes on to say, and I think this is very important in light of what has happened in Paraguay, "In the event that the President transmits such a certification but at a later date he determines that the Government of Nicaragua cooperates with or harbors any international" and on and on, that he should terminate assistance to the Government of Nicaragua. So it is not a one-time thing.

Mr. YOUNG. That is right.

Mr. LAGOMARSINO. It is an ongoing responsibility, although there is no specific action called for on his part other than to obviously obey the law and take the action. But he doesn't have to make any further certification, is that your understanding?

Mr. YOUNG. That is my understanding, yes.

Mr. LAGOMARSINO. What can you tell us about the nature of the Sandinista Government's activities before July 19, 1979 as a character reference? Would you describe it as a terrorist organization, for example?

Mr. YOUNG. I think I would have to describe it as a fairly well organized group of people who were rather sophisticatedly trained from a source outside of Nicaragua, armed from sources outside of Nicaragua.

I think they were more than just a terrorist organization. I think they were well organized, they were well planned. As a matter of fact, I see them much like what is about to happen in El Salvador today, and that is the unification, the bringing together of all of these leftist forces who set out to overthrow the Government of El Salvador. That becomes a real problem.

If I might philosophize for just a minute, many of us have been urging our Government to aid the established Government of El

Salvador. Everything being relative, of course, we see the new government as really more of a moderate government than the other alternatives are. We have a very right wing alternative, and a very leftwing alternative in El Salvador.

If the moderate government, and again I concede everything is relative, they may not moderate by our standards, but if that established government begins to falter, they are going to come under strong attack by the far right, and we have seen examples of this.

The far right is not strong enough to really encounter the far left, which is going to have outside help, so I think it is in the best interests of El Salvador and the United States and our friends in the region to try to establish and help keep established that government that is already there.

There may be some who say the right wing would be better. You know, in some cases maybe it would, but take my word for it, if the right wing begins to move strongly toward an overthrow of the established government, the unified left wing with help from Nicaragua and Cuba, with help from the PLO and other places, you will see a very strong movement there, just as you did in Nicaragua.

Mr. LAGOMARSINO. I think you will see it anyway, but it would certainly be accelerated.

Mr. YOUNG. Yes.

Mr. LAGOMARSINO. Because they, unlike the present government, would not receive assistance from us for one thing.

Do the Sandinistas cooperate with terrorists? The answer is very obvious. They cooperate with Fidel Castro.

As far as you know, and from your work on the Intelligence Committee, is the PLO classified as a terrorist organization?

Mr. YOUNG. By whom?

Mr. LAGOMARSINO. By our Government?

Mr. YOUNG. From my standpoint they are.

Mr. LAGOMARSINO. What about the Montoneros?

Mr. YOUNG. I don't know how our Government classifies them typically. As far as I am concerned, they are a terrorist organization.

Mr. LAGOMARSINO. Both of those organizations were present July 19 at the Sandinista celebration in Nicaragua?

Mr. YOUNG. Yes, sir, that is very obvious. There is very interesting information about the PLO involvement with the Sandinistas that would be available to you in closed session.

Mr. LAGOMARSINO. Some of the collaboration has been described in the Foreign Broadcast Information Service at least, and I have seen some of it even in the public press, indicating that the PLO had cooperated with the Sandinistas, and they with the PLO in the Middle East someplace.

Mr. YOUNG. Yes.

Mr. LAGOMARSINO. It didn't say exactly where.

Mr. YOUNG. Yes.

Mr. LAGOMARSINO. So that certainly was available long before the certification?

Mr. YOUNG. Yes. In fact, I believe I read a European news account reporting on that, quoting some of the people.

Mr. LAGOMARSINO. Thank you.

Mr. YATRON. Thank you very much, Mr. Lagomarsino.

Congressman Young, we thank you very much for appearing here today and giving us the benefit of your views.

Mr. YOUNG. Thank you, Mr. Chairman.

Mr. IRELAND. Mr. Chairman, could I say just one word?

Mr. YATRON. Of course.

Mr. IRELAND. As a colleague of Congressman Young's from the State of Florida, I think the Nation ought to be very proud of Congressman Young. He does more to put his finger on what goes on in some of these areas—and in foreign affairs working, obviously, part time because he has his other congressional responsibilities—than the people in this Government that are assigned to look into it on a full-time basis, and I think he is to be commended. I am happy to be an associate of his.

Mr. YATRON. Thank you very much.

Thank you, Mr. Young.

At this time we will have Assistant Secretary of State for Congressional Relations, the Honorable J. Brian Atwood, give us his statement.

Welcome, Mr. Secretary.

STATEMENT OF HON. J. BRIAN ATWOOD, ASSISTANT SECRETARY OF STATE FOR CONGRESSIONAL RELATIONS

Mr. ATWOOD. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to appear before the subcommittee today. I noted that Mr. Guyer indicated to Mr. Bauman earlier that he was not on trial here today. I assume that I am the defendant. I am perfectly willing to be that.

As I indicated to you yesterday, Mr. Chairman, when we talked about this hearing, Mr. Bowdler, our Assistant Secretary for Inter-American Affairs, is out of town. He is in New York with the Secretary having a number of bilateral meetings at the U.N. Deputy Assistant Secretary Cheek is in Central America. He is responsible for this area. So I am available today to discuss Nicaragua and our relations with that country. I have spent 3 days in Nicaragua, so I consider myself to be an expert on the subject.

I realize, Mr. Chairman, that you have been under a considerable amount of pressure with respect to this hearing today, and that it was therefore not possible in light of the congressional recess for you to wait until Mr. Bowdler and Mr. Cheek returned. I also recognize there are only a few days left before the election and therefore there are certain other imperatives.

I have listened attentatively to Mr. Bauman and Mr. Young today. I have worked very closely with Mr. Young who is on the Foreign Operations Subcommittee. I realize that these members and some of the members of this subcommittee have been strongly opposed to the President's policy with respect to Nicaragua and I understand that; we have spent many hours here on the Hill debating this issue.

Fortunately for the President and for our administration, a majority in Congress has supported our policy with respect to Nicaragua.

I recognize, of course, that this is a very difficult time to conduct a bipartisan foreign policy, and I am somewhat saddened by that

because I have worked very, very closely with some of the minority members on this subcommittee. Frankly, some of the charges made by Mr. Bauman and by Mr. Young—Mr. Bauman accused the President of purposefully and willfully violating the law and Mr. Young indicated that the intelligence community was purposely manipulated by the President— these are not only serious charges, frankly I think they are rather outrageous charges.

Let me get to my written testimony. I think the issue before the subcommittee is quite straightforward. The Special Central American Assistance Act requires a Presidential certification that the Nicaraguan Government is not supporting acts of violence or terrorism before releasing economic assistance to the Government.

The President certified to Congress on September 12 that,

> Pursuant to section 536(g) of the Foreign Assistance Act and on the basis of an evaluation of the available evidence * * * the Government of Nicaragua "has not cooperated with or harbors any international terrorist organization or is aiding, abetting or supporting acts of violence or terrorism in other countries."

The President's certification was based on a very thorough review of all information available to our Government. I might say parenthetically that that review took a good deal of time. We had been concerned that the amount of time that we spent in debating this issue in the Congress was doing nothing more than helping the Marxist elements in Nicaragua. It was therefore at the expense of the policy to spend as much time as the President did in reviewing this information.

Obviously, it will not be possible to discuss this information in open session, and I am therefore limited in what I can discuss publicly here. You will have the opportunity, to review this case in closed session.

I might add at this point that the President, when he made this determination, was interested in specific actions, in the evidence. He was not interested in rhetoric, and I hope that I don't have to sit here and defend some of the rhetoric that comes out of Nicaragua because I frankly couldn't do that.

This certification is going to allow us to disburse $40 million as the first installment of the assistance package. This aid is essential to the security of the United States in our effort to bring stability to Central America.

Our purpose is to support moderate, pluralistic elements in Nicaragua and to counter Cuban influence throughout Central America. Our friends in Nicaragua's private sector need the foreign exchange and local credit which this aid package will provide.

Our friends in the free labor unions, the church, and the media need to know the United States will stand with them. They have told us that delays in moving forward with this aid undermine their role and serve the interests of the elements in Nicaragua who would shed no tears if U.S. relations with Nicaragua were to be harmed.

You in the Congress clearly intended, in responding to the President's urgent request for aid to Nicaragua, to move ahead with this assistance. A majority in Congress wanted the United States to participate in Nicaragua's future, not to retreat at the first sight of our adversaries.

We cannot, however, give aid to countries which support terrorism. Section 620(a) of the Foreign Assistance Act requires the President to terminate assistance to governments which "aid or abet by granting sanctuary * * * to any individual or group which has committed an act of international terrorism." The specific, additional amendment to the Nicaraguan aid bill reflects your concern—which we share—about growing political violence in Latin America.

We see daily atrocities by terrorist groups in El Salvador which intimidate innocent citizens and destroy crops. We see organized hit squads in Guatemala from the left and the right. These terrorists reduce the chances for moderate, democratic solutions. We see Cuba supplying arms and training to revolutionary groups in the region.

Because of these events, you sought additional assurance from the administration that the Nicaraguan Government—which came to power in a bloody civil war of its own—was not involved in terrorist activities in neighboring countries.

As I have indicated, the President based his determination on information from many sources. Within the State Department, we turned to our Bureau of Intelligence and Research to review all the information and to prepare a summary. We also consulted with our Ambassadors in Central America. On the basis of all this information, we presented our recommendation to the President. He in turn consulted with other agencies.

My colleagues from the State Department's Bureau of Intelligence and Research will be pleased to discuss the details of this review in closed session. Our approach was to examine all the indications and evidence available to see whether conclusive evidence of involvement existed. It did not.

We paid particular attention to the possibility of links between the Nicaraguan Government and the Salvadorean extremist groups since the Nicaraguan Government publicly supports the goals of the revolutionary left in El Salvador. Congress reviewed some of this information in closed session last February. We found again that individual Nicaraguans are aiding the Salvadorean left. We believe that weapons and supplies for the violent left in El Salvador may be transiting Nicaragua and Honduras and Costa Rica as well. Indeed, some weapons may be transiting the United States, but we are taking steps as best we can to stop that from occurring. But we did not find conclusive evidence of Nicaraguan Government support for acts of terrorism in El Salvador.

In making his determination, the President also took into account the Nicaraguan Government's relationship with the Palestine Liberation Organization. We found no evidence to indicate that the Nicaraguan Government cooperates with any Palestinian terrorists. Nor do we have any evidence that the Nicaraguan Government harbored any Palestinian who has committed an act of terrorism.

Political support of the PLO does not, in our judgment, preclude a Presidential certification under section 536(g) or under 620(a). Frankly, if it did, a large number of countries would be ineligible to receive our assistance.

The President also considered that many Nicaraguan leaders have repeatedly declared publicly and assured our government privately that their government is not involved with international terrorism. One of the leaders of the Sandinista Directorate told Ambassador Pezzullo again last Friday that no Nicaraguan troops or arms are involved in El Salvador.

These same Nicaraguan leaders have told us, however, that they cannot be responsible for the acts of individual Nicaraguans who help the Salvadorean left. We have, in turn, urged the Nicaraguan Government to use its resources to control this activity on the part of individuals.

As the legislation requires, we review on a continuing basis any information about the Nicaraguan Government's involvement in terrorism. Paraguayan police have alleged that the Nicaraguan Government was involved in the recent assassination of former Nicaraguan President Somoza. We have reviewed the information available to us to date on this assassination and have not found conclusive evidence of Nicaraguan Government participation.

We regularly discuss with the Nicaraguan Government allegations of its involvement in terrorist activities. We have made known to them our concerns about the activities of individual Nicaraguans and the lack of sufficient controls at the border. Nicaraguan leaders realize that continued U.S. assistance depends on noninvolvement in terrorism.

Thank you very much, Mr. Chairman.

Mr. YATRON. Thank you very much, Mr. Secretary, for your statement.

Has the Nicaraguan Government cooperated to determine if Salvadorean insurgents have used Nicaraguan territory for a base of operations?

Mr. ATWOOD. The extent to which they have cooperated, I suppose is arguable. As I have indicated, in their public statements, they clearly support the left in El Salvador. On occasions in the past, however, they have been concerned about this kind of activity, primarily because of their own internal situation. They don't want a flow of refugees coming into Nicaragua. They don't want to be targeted by the right in El Salvador or other parties, and so they have taken some steps to try to control the use of their territory. Frankly, we don't consider all of these steps to be adequate, but they have taken steps.

For example, in December of 1979 Nicaraguan forces intercepted a group of some 13 former anti-Somoza combatants en route to El Salvador via the Gulf of Franceseca and put them in jail. The government then publicly announced the arrest of these individuals and took the opportunity to reiterate its policy of nonintervention. They did that in order to try to deter that kind of activity.

Again, I am not suggesting that we are totally satisfied with the actions that the Nicaraguans have taken, but they have taken some actions, and I think they did so because they perceive it to be in their own interest not to again create a situation wherein the territory of Nicaragua is a battleground.

Mr. YATRON. How does the State Department determine whether a terrorist is acting on his own or on the Nicaraguan Government's behalf?

Mr. ATWOOD. Mr. Chairman, I think that might be better addressed in closed session with some of the people from the intelligence community, but obviously what we look for and what the President looked for in this case was a direct link.

Did the Government or did any Government official—and for the purpose of this inquiry we considered the Sandinista Directorate to be a part of the Nicaraguan Government—participate in decisions. We sought to determine whether or not the orders came from the Government per se, or whether it was simply an individual acting on his own?

Mr. YATRON. You state that arms may be transiting. Are you aware of any attempts by the Nicaraguan Government to halt any of those transfers?

Mr. ATWOOD. Only what I have indicated before in answer to a previous question, Mr. Chairman. They are concerned about that. We are concerned about it. There have been reports about Cuban arms transiting, and we are concerned about that. I have indicated also that arms are transiting other countries in Central America, Honduras, Costa Rica, et cetera.

Mr. YATRON. Thank you, Mr. Secretary.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Secretary, we greet you and welcome you to our committee. You are certainly welcome in giving us the background on how the President's decision was arrived at.

Could you share with the committee, Mr. Atwood, the mechanism of how the President went about reaching the decision to certify, what departments and agencies did he consult? What were the reports that he had before him, and what were some of the recommendations that he had before him?

Mr. ATWOOD. Mr. Gilman, as I indicated, he had heard our recommendations, the State Department's recommendations, which were based on the assessment of our Bureau for Intelligence and Research and our Bureau for Inter-American Affairs. He heard separately, I believe, from other agencies in the intelligence community, the CIA, the DIA. He heard the recommendations of his national security adviser.

I am not at liberty to give you the specific recommendations other than what I have indicated in my testimony were the recommendations of the State Department. With respect to the intelligence community, the community is really not in the policymaking field, and therefore, their purpose is to present factual information and the policymakers and lawyers then make their own judgments.

Mr. GILMAN. Mr. Atwood, would you be familiar with how the administration defines the legislative intent of the Young amendment? In your view, what kind of acts would lead to the conclusion that the Government of Nicaragua cooperated with or harbors any international terrorist organization or is aiding, abeting, or supporting acts of violence or terrorism in other countries?

We have heard a great deal of information about the PLO being involved in Nicaragua, doing some training in Nicaragua, having their people there, and have taken some action outside of Nicaragua from their base in Nicaragua.

Would you consider that to be any violation of the intent of the Young amendment?

Mr. ATWOOD. Mr. Gilman, generally it is very difficult to prove a negative, and as good as our intelligence community is, it is extremely difficult—I remember an old phrase—to find the smoking gun.

It is clear that with respect to the relationship that the Nicaraguan Government has to the PLO, that that raises questions. We don't care for that policy of the Nicaraguan Government at all, as you know very well, but we have no evidence that the Government is supporting acts of Palestinian terrorism or that it is harboring any Palestinian who has committed an act of terrorism. That, obviously would place that Government in violation of the Young amendment and the other amendment, 620(a) of the Foreign Assistance Act.

The Nicaraguan Government has recognized the PLO in a political sense, but many other governments have, and I would say—this is a personal point of view—I think this is terribly unfortunate. Nevertheless, this does not indicate that the Nicaraguan Government is involved in aiding and abetting terrorism.

Mr. GILMAN. Mr. Secretary, since you raised the smoking gun characterization, and since most of the intelligence assessments must rely on a profile of evidence for its judgment rather than the smoking gun, a character reference probably would be quite important here.

In the case of the Sandinista government prior to July of 1979, were they ever classified as a terrorist organization by the State Department?

Mr. ATWOOD. Not to my knowledge, Mr. Gilman, but I am not sure that we are in the business of classifying liberation movements one way or the other, nor do I think there is a requirement to do that. I think I will rest on that.

Mr. GILMAN. Was the State Department aware that the Sandinistas had collaborated with known terrorists prior to July 1979?

Mr. ATWOOD. I would have to check the record on that, Mr. Gilman. They were obviously involved in a "war of liberation" prior to their taking over the Government, and it is quite conceivable that they would have accepted support for their movement from a variety of sources.

Mr. GILMAN. Based upon the evidence that has been submitted to our committee, some of us would believe that the FSLN was in fact a terrorist organization prior to the Nicaraguan revolution.

Are you saying from what you told us here today that you wouldn't agree with that premise?

Mr. ATWOOD. No, Mr. Gilman. I am simply saying that that isn't at issue here as I understand the purpose of this hearing.

Mr. GILMAN. What I was trying to do is to get some sort of a character reference of who we are dealing with, and what sort of people we have to rely on when we make a certification. I would take it that based upon your review of all of the reports that you have seen and the intelligence information, that you would not classify the Sandinistas as any terrorist group at this point in time?

Mr. ATWOOD. You are asking me for a historical perspective. I don't really want to get into the business of providing character references to organizations like the Sandinistas, especially before they became the Government of Nicaragua.

However, I would certainly accept your recommendations in that regard, Mr. Gilman, since I have such high respect for you.

Mr. GILMAN. I appreciate your opinions and I value them. I would assume that the State Department would not have any hesitancy in classifying the PLO as a terrorist organization?

Mr. ATWOOD. Again, that is beyond the purview of this hearing. I don't think I want to get too deeply into the details. The PLO is an umbrella organization, an umbrella which of course encompasses terrorist organizations.

Mr. GILMAN. Would the fact that the Sandinistas were allowing the PLO to conduct terrorist-type activities or training activities within their government, would you feel that that would be a violation of the Young amendment?

Mr. ATWOOD. If indeed they were conducting terrorist activities or if indeed they were training terrorists within Nicaraguan territories, it would be a violation; yes.

Mr. GILMAN. Thank you.

Thank you, Mr. Secretary, and thank you, Mr. Chairman.

Mr. YATRON. Thank you, Mr. Gilman.

Mr. Guyer.

Mr. GUYER. Thank you, Mr. Chairman.

Mr. Atwood, we do appreciate your appearing here. You are not on trial either.

Mr. ATWOOD. Thank you, Mr. Guyer.

Mr. GUYER. I think one of the problems we have is separating the Government from the people, and all throughout the testimony of both yourself and our other witnesses we are talking about people who did certain things, and under your classification it seemed to be people who were not related to the Government, and others were the Sandinistas.

Does the President rely more conclusively on your recommendations in a case like this, since that is a specific title that I believe your office has? He does treasure pretty highly your recommendations—I mean your office, not you personally.

Mr. ATWOOD. No; I would not think that the President would have relied on my recommendations in this case. I think that the President probably knew that whichever way he went on this particular issue, he would have been in trouble in the Congress. But he did, of course, take into consideration the recommendations of the State Department, the intelligence community, the Defense Department, and the national security adviser.

Mr. GUYER. I am sure we have the wrong person testifying today.

Mr. ATWOOD. I can assure you, you do, Mr. Guyer.

Mr. GUYER. I won't get into this in depth, but for one thing, when Arafat and Castro came rejoicing on July 19 in congratulations not only on the anniversary of the revolution but also on the announcement of this money, it was good news and we haven't had any good news for a long time.

But they had some good news, and also this so-called will of the Congress was anything short of being terrific. I think the vote was

202 to 197 and that certainly was not a mandate from the people. But I find no fault.

If you were there 3 days and your conclusions were such that you referred back to the President, I am confident that you must have seen the right things.

Mr. ATWOOD. Mr. Guyer, we noted with a considerable amount of chagrin the endorsement of Mr. Castro for our policy in Central America. Our policy does not favor his position.

Mr. GUYER. I have a long memory and I realize the PLO is not going to go away and they are recognized by people other than this country.

Mr. ATWOOD. Right.

Mr. GUYER. And they are behind many groups such as Black September, and we could go into some of that but I don't think this accomplishes very much. We are trying to find, I think, the basic premise of our committee, to determine whether or not, first of all, the judgment was correct in our assessment of Nicaragua. And more importantly, whether the basis of their hands-off policy on terrorism, which seems to me is the thing we probably could agree on, they have not spanked anybody for what they did do if they were as such acting as a government.

There were people there with their full permission and probably approval and encouragement doing things to us which are antihumane.

I appreciate your coming to our committee and giving us what information you had. I am a little bit disturbed by the fact that you arrived at your conclusion by consulting within the State Department the Bureau of Intelligence Research and the Ambassadors from Central America. I have talked to many of them, and I could agree they would welcome this because any money that they got would not have to come from their country. I have talked to several of them and they are very happy about this.

I don't have any further questions.

Mr. YATRON. Thank you, Mr. Guyer.

Mr. Lagomarsino.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

We agree, don't we, that what we are talking about here today is whether the certification was made correctly, not what the policy should be?

Mr. ATWOOD. Yes, sir.

Mr. LAGOMARSINO. We could probably have a good argument whether the amendment should have been adopted. I know the State Department was not very happy about that agreement at the time, correct? Naturally enough they would rather not have any amendments because the Sandinistas did view all of these amendments with disfavor to say the least.

Mr. ATWOOD. Somewhat understandably, I suppose.

Mr. LAGOMARSINO. Sure.

Mr. ATWOOD. No sovereign government wants to be questioned with respect to its activities.

Mr. LAGOMARSINO. I think the statement by Mr. Vorges that Congressman Young read in his statement is accurate. I think that is exactly right. I don't think you are going to change their policies for $75 million. I don't know about $1 billion, but not for $75 million.

Mr. ATWOOD. Mr. Young indicated that $75 million falls between the cracks around here. I can assure you, because of Mr. Young's diligence it doesn't fall between the cracks in the foreign assistance bill.

Mr. LAGOMARSINO. That is correct.

I notice on page 1 of your testimony about the 10th line down you say, "The Special Central American Assistance Act requires the Presidential certification that the Nicaraguan Government is not supporting * * *," that is not exactly what it says.

It says, "has not cooperated with or harbors." I think perhaps that is something which you could explore a little bit.

Is it the view of the State Department that if at the time of the certification the proscribed activity is not going on, that the certification can be made?

Mr. ATWOOD. No, we would agree with your interpretation.

On the first page of my testimony we did quote the law which says "has not cooperated with."

Mr. LAGOMARSINO. Yes; above there you say that.

Mr. ATWOOD. Yes.

Mr. LAGOMARSINO. Could you explain to this committee why the President did not require or did not issue required certification when he authorized $15 million for Nicaragua from reprogramed funds in June of this year?

Mr. ATWOOD. Yes, Mr. Lagomarsino.

That $15 million, as you know, was reprogramed from other funds after the Congress was notified under the procedures for reprograming. We received an initial objection from the Foreign Operations Subcommittee, as I recall, on the House side, and that subcommittee voted to approve or go ahead with the $15 million. lion.

Now I would point out that that occurred before the Young amendment was adopted as I recall.

Mr. LAGOMARSINO. That is correct, except that the money was not authorized and obligated until June after the bill became law. I might say I have supporting documents from the Library of Congress that would cause or at least raise a question about the propriety of that particular authorization and obligation.

Mr. ATWOOD. Mr. Lagomarsino, I can only say, not being a lawyer, that we have some of the more cautious lawyers in the world at the State Department, and I would be surprised if we were allowed to act in an illegal fashion. And I would also imagine that the Foreign Operations Subcommittee of Approprations would have informed us if we were acting illegally.

Mr. LAGOMARSINO. As you say in your statement, properly so, you and I think the Foreign Operations Subcommittee feels that the $75 million should go there, and I think that that might persuade them perhaps to come to a different conclusion.

I would like to enter those documents.

Mr. YATRON. Without objection.

[The information referred to follows:]

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

September 4, 1980

TO : House Foreign Affairs Committee
Attn: Mr. Ed Fox

FROM : American Law Division

SUBJECT: Need To Comply With Certification Requirement Applicable to Nicaraguan Assistance When Reprogramed Funds Are Used

Reference is made to your recent inquiry requesting information on the above matter. In this regard you ask us to review and comment upon a memorandum of July 8, 1980 by the Assistant Administrator for Legislative Affairs, Agency for International Development (AID) which seems to suggest that a statutory prior certification requirement may not apply in circumstances involving the reprogramming of previously appropriated funds.

Whether the conclusion implied by the mentioned memorandum obtains seems to us to depend on the underlying source of legal authority which forms the basis for the activity in question -- i.e., furnishing assistance to Nicaragua in fiscal year 1980. Briefly, the statutory authority and attendant requirements are determinative of the need for compliance vel non with certification mandated by section 536 of the Foreign Assistance Act of 1961 (FAA), as amended by various Acts including P.L. 96-257.

In other words, if some or all of the contemplated release of assistance to Nicaragua is pursuant to some law other than P.L. 96-257, the certification requirement imposed by the latter may not apply. Conversely, if assistance to Nicaragua in fiscal year 1980 is extended ultimately

under P.L. 96-257, the requisite certification would have to be made whether the funds therefore are authorized by that or some other Act.

P.L. 96-257 authorizes assistance for Nicaragua and other Central American countries for fiscal year 1980. In addition to funds otherwise available for peaceful and democratic development in Central America, the Act authorizes $80 million for fiscal year 1980, which funds are authorized to remain available until expended. ($75 million of this amount is for Nicaraguan assistance and $5 million is for assistance to Honduras.) Because of the uncertain political situation brought on by "the recent civil strife in Nicaragua," Congress imposed various conditions on assistance to Nicaragua in order to ensure inter alia, that such assistance would be used to "alleviate ... suffering and ... promote economic recovery within a peaceful and democratic process". § 536(a). (Emphasis added.) To this end, the Act requires that in furnishing assistance to Nicaragua, the President "shall" take into account the extent to which that nation's government "has engaged in violations of the right to organize and operate labor unions free from political oppression, has engaged in or permitted violations of human rights, has engaged in violations of the right to freedom of the press, or has engaged in violations of the right to freedom of religion." § 536(c). A consistent pattern of gross violations of internationally recognized human rights constitutes grounds for mandatory termination of assistance to Nicaragua. § 536(e).

P.L. 96-257 provides that prior to the release of any assistance to Nicaragua, the President "shall" certify to Congress that the government of Nicaragua has not cooperated with or harbors any internationalist terrorist organization or is aiding, abetting, or supporting acts of violence

or terrorism in other countries. § 536(g). Briefly, the required certification is a mandatory condition precedent to the furnishing of assistance to Nicaragua. Futhermore, the requirement is not limited to funds authorized by P.L. 96-257, but applies to the release of "any assistance to the Government of Nicaragua under [the authority of] this chapter" — i.e., Chapter 4 of part II of the FAA — "Economic Support Fund" [ESF] — relating to Central American Economic Support. Accordingly, the certification requirement apparently must be satisfied in releasing assistance to Nicaragua so long as P.L. 96-257 is the legal authority for providing such assistance.

In advance of P.L. 96-257's becoming law on May 31, 1980, AID apparently decided that conditions in Nicaragua were such that an immediate extension of $15 million was required. We are not aware of the specific authority for such action, but presumably some general provision in the FAA was deemed sufficient and proper for this purpose. The $15 million in question was reprogramed from an amount previously appropriated. Also, it appears that the remaining $60 million eventually authorized by P.L. 96-257 is to be obtained from a reprogramming of previously appropriated ESF funds. The appropriations from which such reprogramed funds are to be drawn are intended to be reimbursed from a forthcoming supplemental. Although the requisite Advice of Program changes have been forwarded to Congress in conformity with reprogramming practice, neither amount seems to have been obligated. The question therefore arises regarding the application of the noted certification requirement to assistance to Nicaragua released from the described reprogramming activities.

As indicated, the decision regarding release of the initial $15 million was made prior to the effective date of P.L. 96-257. The decision to release the remaining $60 million was made after that date but in advance of the necessary appropriations law. If, as seems to be the case, P.L. 96-257 constitutes the basic and exclusive authorization for extending assistance to Nicaragua after May 31, 1980, compliance with the certification requirement would seem clearly to be required in connection with the release of the $60 million notwithstanding that the funds are drawn from a previous appropriation. As noted, certification prior to release of assistance is mandated with respect to "any assistance to the Government of Nicaragua under [the authority of] this chapter."

Assuming that satisfactory authority to assist Nicaragua existed before May 31, 1980, the reprogrammed funds comprising the $15 million initial outlay would not have to be preceded by the requisite certification. However, if these funds in fact have not been obligated a different answer may be in order because P.L. 96-257 arguably is the exclusive authority for extending assistance to Nicaragua after May 31, 1980.

The authority to furnish assistance to Nicaragua or any other country must be derived from statute. Generally, aside from matters relating to presidential pardons and receiving ambassadors, the President is entirely beholden to Congress for legal authority and funds to execute a program. "Congress alone controls the raising of revenue and their appropriation and may determine in what manner and by what means they shall be spent... ." Jackson, J., concurring in Youngstown Co. v. Sawyer, 343 U.S. 579, 643 (1952). "... where Congress has laid down specific procedures... the President... must follow those procedures ... . " Clark, J., concurring, id. at

662. "... the power to execute the laws starts and ends with the laws Congress has enacted." Douglas, J., concurring, id at 633.

The obligation to faithfully execute the laws is not a grant of law-making authority. "In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the law-making process to the recommending of laws he thinks wise and vetoing the laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first Article says that 'all legislative Powers herein granted shall be vested in a Congress of the United States... .' After granting many powers to the Congress, Article I goes on to provide that Congress may 'make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.' ... The Constitution does not subject this law-making power of Congress to presidential ... supervision or control." Youngstown Co. v. Sawyer, 343 U.S. at 587-588.

While we have been unable to find instances whereby statutory requirements have been circumvented by reprogramming funds previously appropriated, such precedents should they exist would not make the practice lawful. As the Supreme Court said in connection with an analogous argument; "But even if this be true, Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out the powers vested by the Constitution 'in the Government of the United States or any Department or Officer thereof.'" Id. at 589-590.

Government officials, including the President, are subject to law and are not at liberty to add or subtract therefrom. "The duty of the President to see that the laws be executed is a duty that does not go beyond the laws or require him to achieve more than Congress sees fit to leave him within his powers." Myers v. United States, 272 U.S. 52,177 (1926). "To contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution, and entirely inadmissible." Kendall v. United States, 37 U.S. 542, 612 (1838).

An 1890 Attorney General's Opinion summarizes the point that officials generally are not at liberty to select features of a law for enforcement and nonenforcement as follows:

> ... The President has, under the Constitution and laws, certain duties to perform, among these being to take care that the laws be faithfully executed: that is, that the other executive and administrative officers of the Government faithfully perform their duties; but the statutes regulate and prescribe their duties, and he has no more power to add to, or subtract from, the duties imposed upon subordinate executive and administrative officers by the law, than those officers have to add or subtract from his duties. 19 Ops. Atty. Gen 658, 585-687.

It is clear from the foregoing that an executive or administrative officer is duty bound to enforce the laws Congress has enacted and, in the absence of discretion expressly granted, he or she may not disregard any requirement imposed by such law. The certification requirement of P.L. 96-257 confers no discretionary waiver authority. Certification of nonterroristic involvement or complicity is a condition precedent to the release of assistance to Nicaragua. Accordingly, to the extent that P.L. 96-257 is relied on as authority to provide assistance to Nicaragua, compliance with the certification requirement is mandatory. This conclusion obtains regardless of the source from which funds for that purpose are eventually derived absent statutory authority to the contrary. To conclude otherwise not only would undermine the obligation to faithfully execute the laws but would permit circumvention of many, if not all, legal requirements by the simple expedient of reprogramming previously appropriated funds.

Raymond J. Celada
Senior Specialist In
American Public Law

Mr. GUYER. What was the impact of Mr. Wright's visit? I am curious about that. A delegation did go down.

Mr. ATWOOD. Yes.

Mr. GUYER. I did not read too much in the report. Do you want to comment on how they were received?

Mr. ATWOOD. I certainly can. I indicated that I spent 3 days in Nicaragua. It was on that particular trip.

Mr. GUYER. On the same mission?

Mr. ATWOOD. With Mr. Wright, yes, and he was very, very well received. Mr. Wright made it clear that we had no intention of interfering in Nicaragua's internal affairs. And I think that it was important for the people of Nicaragua who have a lot of suspicions about our country, because of the history of our relationship, be reassured that we in turn do not intend to intervene in their affairs. Mr. Wright was an excellent ambassador for our country.

Mr. GUYER. Did he speak to them in Spanish?

Mr. ATWOOD. He did as a matter of fact; yes. He was an excellent representative.

Mr. GUYER. That is all.

Mr. LAGOMARSINO. If I might reclaim my time, I can understand your reluctance to classify or not to classify the PLO as a terrorist organization, but if you don't classify it as a terrorist organization, how can you tell whether or not the certification can be granted?

Mr. ATWOOD. What I said, Mr. Lagomarsino—I wasn't reluctant to classify—I don't want to get into a lot of detail about the PLO, but there are certainly terrorist organizations which are part of the Palestinian Liberation Organization. There are several organizations within that umbrella organization, and surely many of them are terrorist organizations. However, not everyone who calls himself a PLO member is a terrorist.

Mr. LAGOMARSINO. Are you familiar with the interview that both I and Mr. Young mentioned with Julian Ignacio Otero Espinosa?

Mr. ATWOOD. No, sir, I am not.

Mr. LAGOMARSINO. I understand it is a matter of public record. Wouldn't something like this be taken into consideration?

Mr. ATWOOD. Yes, most certainly it was. I am not personally——

Mr. LAGOMARSINO. You are saying it was taken into consideration?

Mr. ATWOOD. I am sure it was. I think you should ask that question in closed session of those who did consider this.

Mr. LAGOMARSINO. How about—of course, this happened after the certification, but what about the statement of the police chief in Asuncion, Paraguay, saying that one of the persons who killed Somoza, Mr. Yruzun, was a man who fought with the Sandinista guerrillas and came from Nicaragua, and also saying that the arms brought in came from Nicaragua.

Are you familiar with that?

Mr. ATWOOD. Yes, I am. We have weighed that information. We know what the position of the Paraguayan police is with respect to this. That has been considered. We have to weigh that against other information that we have, and I think again you may want to explore that further in closed session.

Mr. LAGOMARSINO. I might remind you, too, that Lambert Henega who is described as a public affairs advisor for the State

Department's Office for Combating Terrorism is quoted as saying, "There is no question in our minds that the Sandinistas in their earlier period did carry out terrorist activities," mentioning the national palace situation where 25 armed Sandinistas took over the entire legislative assemblage.

Are you familiar with that?

Mr. ATWOOD. I don't think there is any question in anyone's mind that that was an act of terrorism. It was, of course, part of a liberation struggle. That doesn't excuse it. It occurred and it is part of history, but that is not the issue at hand.

Mr. LAGOMARSINO. That is correct. There has been some inference. I think Mr. Young can certainly speak for himself, but I think that is why he worded his amendment in such a way as he did that we or the President would be required almost to prove the negative that you spoke of because of the past operations.

Mr. ATWOOD. That may have been Mr. Young's intent, but that is not our lawyer's interpretation of the Congress intent. We assumed that what he was attempting to cover was the Nicaraguan Government, the current Government.

Mr. LAGOMARSINO. Oh, no, I didn't mean that.

Mr. ATWOOD. Yes.

Mr. LAGOMARSINO. I meant that because of the past activities of the people in that Government, that we thought that there was an extra special burden involved here.

Mr. ATWOOD. I would hope that that same criterion would not be applied to our own history because there were some rather patriotic Americans who were involved in a revolution here.

Mr. LAGOMARSINO. That is not the point, though. No one had to certify in that case.

Mr. ATWOOD. Thank goodness.

Mr. LAGOMARSINO. I think that is a key element here. Are we really talking about the certification or are we talking about what the results should be?

Mr. ATWOOD. Right.

Mr. LAGOMARSINO. We could certainly argue about that and probably would, but that is not the issue.

Mr. ATWOOD. I understand.

Mr. LAGOMARSINO. The issue is a certification, whether it was proper or not.

Mr. YATRON. Thank you, Mr. Lagomarsino. If we are going to go into executive session, we want to move along, but I would like to acknowledge Mr. Young for a question or two.

Mr. YOUNG. Mr. Chairman, thank you very much.

First, I would like to say that Mr. Atwood and I know each other very well, and I am sorry that he reported that he is not taken into the inner circle at the White House when these decisions are made because I think if he were, these decisions might be different on occasions because he has a very level head and I think a solid outlook on matters that we have to debate and discuss from time to time.

Thank you, Mr. Chairman. I would like to ask just two questions.

One is why was there an embargo on information relative to Nicaragua for the intelligence committee? Why was all of a sudden the information cut off?

Mr. ATWOOD. I was just as surprised to hear that today, Mr. Young, as you were probably to hear it initially from whomever your staff talked to at the CIA, because I believe the Agency will testify that there was no such embargo. I am sure that the individual who talked to your staff member thought there was, but there was not.

Mr. YOUNG. You know that for a fact?

Mr. ATWOOD. I have spoken to a CIA representative here today who indicated that. I do not know of any evidence that there was an embargo, so I assume I know that as a fact, yes.

Mr. YOUNG. That is very interesting. I will discuss that with Chairman Boland, then.

Mr. ATWOOD. I am not suggesting to you, Mr. Young, that you can have access to all of the information. That is a policy matter for the CIA, and they are obviously very sensitive, even in dealing with the Intelligence Committee, with respect to sources and methods. So, therefore, I think the most important point is that you have seen the conclusions and their analysis, and I believe you have seen that analysis and you have seen exactly what the President has seen and you obviously have come to a different conclusion.

Mr. YOUNG. My question has to do with a Presidential embargo.

Mr. ATWOOD. Right.

Mr. YOUNG. You say there was none?

Mr. ATWOOD. I say there was none, that is right.

Mr. YOUNG. Very curious. Let me move away from that. We will somewhere along the line, I guess, resolve that and find out if there was or not.

Mr. ATWOOD. Mr. Young, one more comment. If there was a Presidential embargo, it wasn't very effective if you saw the paper that was sent to the White House for use by the President.

Mr. YOUNG. That was after the embargo. The paper I mentioned was after the embargo.

Mr. ATWOOD. I see, the alleged embargo.

Mr. YOUNG. I have a question about the business of who are terrorists and who are not. I think you responded—I didn't know what your official position was but I think you responded that—PLO is not considered a terrorist organization by the State Department?

Mr. ATWOOD. No, I did not say that. I said that within the PLO there are terrorist organizations, that not everyone who considers himself to be a member of the PLO is a terrorist, and indeed not every organization under that umbrella is a terrorist organization.

Mr. YOUNG. I am trying to coordinate that with appendix B of the report of the National Foreign Assessments Center on International Terrorism for 1979 which was published based on research as of the 6th of January, 1980, and in appendix B they have the names and acronyms used by groups claiming responsibility for international terrorist attacks, and in there they list the Palestine Liberation Organization. They apparently, according to the National Foreign Assessments Center, claim that they are a terrorist organization as well as the Sandinista National Liberation Front.

Mr. ATWOOD. I wouldn't argue with that as a matter of shorthand. I was giving you a more detailed answer to your question.

Mr. YOUNG. Let me ask you one more question, then.

On August 23 a newspaper in Kuwait reported that a delegation from the Palestine Liberation Organization had gone to Nicaragua to supervise military training. According to this newspaper, the Ar-Ray Al-Amm, the instructors were sent in accordance with an agreement between Yassar Arafat and the leaders of the Sandinista government.

Does that indicate to you any relationship, official or otherwise, between the Sandinista or the Government of Nicaragua and the PLO?

Mr. ATWOOD. That does indicate to me that there is a relationship. They have recognized the PLO as a political entity.

Mr. YOUNG. What about the military training part of it?

Mr. ATWOOD. We have heard reports that the PLO has been involved in training. I would again recommend that you explore this more fully in closed session.

Mr. YOUNG. Thank you, Mr. Chairman.

Thank you, Mr. Atwood.

Mr. YATRON. Thank you very much, Mr. Young.

Secretary Atwood, we thank you very much for appearing here today and giving us the benefit of your views.

Mr. ATWOOD. Thank you, Mr. Chairman. I have enjoyed it.

Mr. LAGOMARSINO. Mr. Chairman, I wonder if I might ask just one further question.

Mr. YATRON. Without objection.

Mr. LAGOMARSINO. You say that, looking at it further, what Mr. Young was just talking about, if it should occur that they are engaged in joint training exercises, would that then be evidence that they were in violation of this amendment?

Mr. ATWOOD. I think it depends on who they are and what the training is.

Mr. LAGOMARSINO. Military training.

Mr. ATWOOD. There are individuals who call themselves members of the PLO who could be involved in military training of a conventional type, and I don't believe that that would fall under the rubric of Mr. Young's amendment.

Mr. LAGOMARSINO. The PLO is not a conventional military force, though, as I understand it.

Mr. ATWOOD. No, but they certainly could have some expertise in that area, just as I presumably have some expertise on Nicaragua.

Mr. LAGOMARSINO. I was there for 2 days.

Mr. YATRON. At this time, the subcommittee would like to go into executive session. I respectfully ask all unauthorized persons to please leave the room.

[Whereupon, at 4:25 p.m., the subcommittee proceeded into executive session.]

APPENDIX 1

LETTER TO HON. BENJAMIN A. GILMAN, FROM R. BRUCE CUTHBERTSON, REGIONAL VICE PRESIDENT FOR CENTRAL AMERICA, ASSOCIATION OF AMERICAN CHAMBERS OF COMMERCE IN LATIN AMERICA

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September 25, 1980

The Honorable
Benjamin A. Gilman
House of Representatives
Washington, D.C. 20515

Dear Mr. Gilman:

During the Congressional debates over foreign aid to Nicaragua in June, members of Congress voiced their worries about the direction Nicaragua was taking under the Sandinista government. High officials from the Sandinista government visited Washington to officially reassure Members of Congress as to their intentions. Almost four months have passed and the situation continues to deteriorate, especially in regard to private enterprise, human rights, the possibility of free, democratic elections, and freedom of the press. Private property continues to be confiscated illegally. Human rights continue to be grossly violated. The Sandinistas have publicly admitted that there is no possibility of free, democratic elections in the country. Freedom of the press does not exist. The Sandinistas continue in the efforts to forge a partnership with Cuba and international terrorist groups. The assassination of Anastasio Somoza by members of terrorist groups, the ERP and the Montoneros, and the linking of the assassins to the Sandinista government (Miami Herald, Sept. 20), confirms the willingness of the Sandinista government to use any means to obtain their goal of establishing a Marxist-Leninist dictatorship in Nicaragua.

For your information I summarize some recent events as follows:

1. Confiscation of Private Property:

Illegal confiscation continued in July, August and September, using the same tactics as had been previously used. Private businesses, private homes, and private farms

Regional Vice Presidents: Robert W. Chandler, Mexico; R. Bruce Cuthbertson, Central America; Charles A. Franck, Brazil and Paraguay; John D. Locke, Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela; Stanley A. Shura, Argentina and Uruguay; Patrick N. Hughson, Caribbean and Panama.

continue to be taken away from people who had no connection with the previous regime without due process or compensation. In the industrial sector, the remaining holdings of the Gonzalez family in the Carveceria La Victoria (a local brewery) were taken. Further SACSA, a bag manufacturing company that was at one time affiliated with Bemis Bag, was also seized. PROMSA, a clay producing plant, was taken over. On September 17, a decree was issued to take over MACEN, a bag plant. In May and June, in public declarations in the United States, high Nicaraguan government officials offered to review illegal confiscation under a new law supposed to help protect private individuals. This law was heralded by some Congressmen as a "victory" for the moderate, democratic forces in Nicaragua. I am unaware of any relief having been obtained to date under this law or property returned to its rightful owner.

My company, SOVIPE, continues to be subject to the same type of pressures I described previously in my testimony. While the arbitrary and unfounded arrest warrant against the manager and president was withdrawn, continued pressures on the president of the company, Mr. Enrique Pereira, caused him to accede to government demands that he sell his participation in the company. Having stated that he would sell his stock, he is still waiting for the government to proceed with the transaction. On the other hand, at the end of July, the home of his wife, Daisy Solorzano de Pereira, was seized violently by an army patrol, ransacked and then turned into an army barracks. When her brother arrived to protest the act, he was told the confiscation had been ordered by the Minister of Justice under decree 282. They alleged that the decreee provided that, since both she and her husband had been investigated (although nothing was ever charged) and since she had not been present during this time, her property was forfeit, as was his. During her multiple trips in and out of Nicaragua in the past year, Mrs. Pereira had never received any information that an investigation was in process. Later I was informed that this patently illegal seizure was in retaliation for my having given testimony in Washington, as I supposedly had given information which showed the revolution in a bad light and promoted Mr. Pereira's personal interests.

Homes and personal effects of many other people have been similarly confiscated. The Leon residences of Ramiro Ortiz and Emilio Cardenal are two specific examples of the many homes recently confiscated. In the agricultural

area private farms also continue to be confiscated with the same tactics. An example is the farm "La Gallina" of the Sacasa Family. Where there has not been outright confiscation by force, "spontaneous" takeovers by the workers have been used. Examples abound, and sometimes the facilities are not returned to the owners.

What percentage of private property has been taken over? How much is left? It is difficult to tell, although I have heard that as much as 70% of the private property is now in government hands. Unfortunately statistics are not available, and the Sandinista government is not interested in people knowing how fast they are confiscating private property. A new law has been presented for approval which would automatically allow confiscation of personal property of Nicaraguans who request political asylum. Thus, Nicaraguans who were persecuted by the government could be summarily stripped of their property for having tried to escape this persecution. No one knows how much more of the remaining private property would be seized if this new law passes.

2. Violations of Basic Human Rights and Freedoms:

While loudly proclaiming its respect for human rights, the Sandinista government has consistently violated basic human rights and freedoms. To silence criticism of its action, it has tried to intimidate the coordinator of the Nicaraguan Permanent Human Rights Commission, Jose Esteban Gonzalez. Mr. Gonzalez was one of the major figures in exposing human violations in Nicaragua during the Somoza regime and was recognized by both the U.S. Government and international organizations such as Amnesty International for his work. With grand pomp, the Sandinistas announced in August the formation of their own, presumably docile, "human rights commission," in order to present the type of facade they wish.

Not to be intimidated, Jose Esteban Gonzalez defined the true status of human rights in today's Nicaragua when he wrote the following on July 15: "If the Minister of Justice, instead of dedicating himself to persecute honest citizens, would put a little of his own (effort) to fulfil the functions which are assigned to him under the "Law of Help for Personal Liberty and Personal Security" by collaborating in locating people who have disappeared, the situation of human

rights that the government purports to respect and promote will be less grave, and the honorable Minister could return the tranquility to the humble Nicaraguan families who are looking for hundreds of prisoners, captured by military personnel of the actual government, and on whose destiny the authorities keep an unjustifiable and suspicious silence." He further writes, "I request that the Minister of Justice make an exhaustive investigation of the actions of those foreigners who, under the disguise of a false international solidarity, intervene in various branches of the government. In particular, the Minister of Justice ought to obtain from the Ministry of the Interior and from the Department of State Security the names and complete affiliation of those citizens or foreigners dedicated to the infamous labor of torturing, humiliating and mistreating defenseless prisoners (be they guilty or innocent) in the known and clandestine jails of the present government and that the Minister make public the results of his investigation." In regard to attacks on himself, Gonzalez continued, "I denounce the campaign mounted, under the pretext of an absurd investigation of my legitimate personal actions, against the Social Christian Party of Nicaragua, and against The Permanent Human Rights Commission of Nicaragua, as a new intent by the Marxist, pro-Soviet-Cuban sector of the government to malign and crush democratic organizations, to impede our people from defending their legitimate rights, and to frustrate our authentic Sandinista revolution."

Cases of arbitrary incarceration, tortures, summary executions and bad treatment of prisoners are extensive though not publicized. Detailed information and examples regarding this have been given to the U.S. Embassy in Nicaragua in sworn testimony. Among the sources of information are detailed interviews with Fredy Lacayo, a Nicaraguan citizen and U.S. resident who was unjustly jailed, tortured and badly mistreated during a period of approximately nine months. His experiences, the tortures to which he was subject, and the tortures and summary executions to which he was a witness, were personally reported by him to the U.S. Embassy. Further, Mr. Lacayo has given public declarations in the United States regarding his experiences.

3. Free Elections:

In June, the Sandinista government promised to announce on July 19 a date for elections, but it did not do so. When pressed, the Sandinista government announced that it will

not have elections until 1985, at the earliest. In a speech on August 23, Humberto Ortega said: "Instead, there will be no political campaigning until 1984, no elections until 1985, and the elections when they come are very different from the elections wanted by the oligarchs and traitors. These are elections to advance revolutionary power, but not to fool the people who have power here, because the people have the power through the vanguard, the Sandinista National Liberation Front" (Miami Herald Sept. 8, 1980). It should be noted that it is forbidden to speak of elections and those doing so risk jail. One can only conclude that the Sandinistas have no intention of permitting a pluralistic political system or democratic elections as we know them. Quite the contrary. They are busily setting up a totalitarian dictatorship.

4. Lack of Freedom of Press:

The lack of freedom of expression and the press continues to be patently obvious as the state directly and totally controls the television system, and a good part of the radio system and local press. The Sandinistas obtained control of the television system by confiscating both television stations, one from the Somoza family and the other from an independent corporation whose stockholders were not politically active. No compensation was paid.

It is against the law to speak about the possibility of elections. Laws have also been issued in recent weeks to make it illegal to carry political news in the newspapers, radio or television, or to inform of grain shortages or shootings, unless specifically permitted. These censorship laws provide stiff jail terms for those foolish enough to protest against the government. In addition to the law, strong pressures have been placed on reporters to be positive about the revolution and not critical of it. Those who are not positive enough or do not take this suggestion seriously have been thrown in jail or persecuted. Among recent victims are Messrs. Treminio and Montalvan. La Prensa, an independent newspaper, has been forced by the circumstances to be quiet and inoffensive after being closed down and financially weakened by governmental pressures in April. Fear permeates the atmosphere in Nicaragua. Anyone who must live and work there is subject to pressures by the government. There is fear of arbitrary incarceration or other pressures if one's acts are interpreted as contra-revolutionary by members of the government.

5. Cuban Influence and Connection with International Terrorist Groups

The continuing growth of the Cuban influence is more obvious every day, as is the desire of the Sandinistas to follow the Cuban example. Fidel Castro was the major attraction at the first anniversary of the revolution in Managua on July 19. On July 26 in Havana, Arturo Cruz, the supposedly moderate member of the Nicaraguan Junta, joined Fidel Castro on the podium to celebrate the anniversary of the Cuban revolution and listened to effusive praise of the Nicaraguan revolution and the usual anti-American diatribe. Shortly afterwards in Mexico, the Vice-President of Cuba's State Council, Carlos Rafael Rodriguez, expressed his satisfaction with the progress of the Nicaraguan revolution and made a prediction that similar changes could soon occur in other countries in Latin America. Every day the Cuban influence grows stronger, especially in highly sensitive areas such as the military, state security, communications, and education. Examples range from comic to terrifying. Disembarcation cards destined for use in Cuba have been used in the Managua airport. Cuban formats and terminology are used on Nicaraguan driver licenses. In a more serious vein the FBI recently arrested three Cubans in Ft. Lauderdale, Florida, and accused them of spying. These men were traveling under recently acquired Nicaraguan passports, and the Nicaraguan government magnanimously offered to post bond for them. Close links are also obvious between the Sandinista government and international terrorist groups. Yassan Arafat and other international terrorists occupied positions of honor in the revolution's anniversary ceremony in Managua. Arms to fight the revolution had been obtained from Libya. Anastasio Somoza was assassinated by the ERP and Montonero groups, and, according to the Miami Herald, the weapons came from Nicaragua and the leader of the hit squad had been in Nicaragua recently.

These specific examples of what is happening in Nicaragua have been reinforced vividly by the personal impressions of friends and others who live and work in Nicaragua. The pervasive atmosphere of fear continues and grows, and every day more Nicaraguans abandon their country to look for a life of freedom. It is difficult to transmit precisely the feeling of totalitarianism which I have sensed through the personal contact with Nicaraguans whose major desire is to live and work in a free, democratic country.

What is happening in Nicaragua affects the rest of Central America more severely every day. I have been in both Honduras and Guatemala recently and have seen the concern of the private business community about these developments and the direction which Nicaragua is taking. A recent study by AACCLA on the attitudes of its members in Central America showed the severe affect the present situation is having on the economies of these countries. In many cases sales and profits have dropped. Investment is zero or negative. Businesses cannot get foreign exchange to import new materials or products, as capital flight and lack of foreign commercial bank lending has made dollars unavailable. Local banks have lost deposits making local loans hard to get. Both Nicaragua and El Salvador have critical foreign exchange situations and have imposed strict exchange controls. Guatemala, Costa Rica and Honduras have difficulties with foreign exchange. Costa Rica has moderate exchange controls and Guatemala recently imposed controls. As a result, free markets exchange rates continue to reflect the uncertainty in the area. On the other hand, most businessmen feel that the economic potential of the area is high if the political climate changes.

If you require further information, I will be happy to help you as best I can. I would be even willing to come to Washington and to discuss the situation with you personally if you so desire.

Very truly yours,

ASSOCIATION OF AMERICAN CHAMBERS OF COMMERCE IN LATIN AMERICA

R. Bruce Cuthbertson
Regional Vice President
Central America

RBC:jg
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APPENDIX 2

LETTER TO HON. STANSFIELD TURNER, DIRECTOR, CENTRAL INTELLIGENCE AGENCY, FROM HON. EDWARD P. BOLAND, CHAIRMAN, PERMANENT SELECT COMMITTEE ON INTELLIGENCE

U.S. HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C., August 22, 1980.

Hon. Stansfield Turner,
Director of Central Intelligence,
Washington, D.C.

DEAR ADMIRAL TURNER: Congressman Charlie Rose, Chairman of the Subcommittee on Evaluation, informs me that this subcommittee's staff has been denied briefings on Nicaragua, which it requested of CIA last week in the course of the Committee's routine oversight of intelligence on Central America. The reason given was that a "Presidential embargo" is currently in force on briefings of congressional staff and the press concerning Nicaragua. Please confirm whether such an embargo exists, and if so, please explain its terms and purpose.

The Committee has further been informed that, although denied to Committee staff, briefings would be provided to individual Members if requested. Because this procedure does not effectively facilitate its work, the Committee has acceded to such restrictions only on rare occasions. These occasions have been justified on the grounds of the fragility of the information itself—i.e., the possible risk to intelligence sources and methods. Is this the basis for the present embargo on information?

In principle, the denial of information to the responsible congressional committees raises serious concerns. The existence of differing views on policy toward a given region of the world argues for the best possible dissemination of available intelligence, within rigorous security procedures, so that all responsible parties may be well informed. An embargo is not only inimical to congressional oversight of intelligence, but it curtails the exchange of views between the executive and legislative branches essential to the policy process.

I look forward to your response concerning the current embargo, which is a matter of serious concern to the Committee.

With every good wish, I am

Sincerely yours,

EDWARD P. BOLAND, *Chairman.*